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A REVIEW OF THE USDA MANDATORY LIVESTOCK REPORTING PROGRAM

HEARING

BEFORE THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

UNITED STATES SENATE

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WEDNESDAY, JUNE 22, 2005

U.S. SENATE,
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC.

The committee met, pursuant to notice, at 10:35 a.m., in room SR–328A, Russell Senate Office Building, Hon. Saxby Chambliss, [Chairman of the Committee], presiding.

Present or submitting a statement: Senators Chambliss, Grassley, Harkin, Stabenow, Nelson, and Salazar.

STATEMENT OF HON. SAXBY CHAMBLISS, A U.S. SENATOR FROM GEORGIA, CHAIRMAN, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

The CHAIRMAN. We will move to a hearing on the livestock mandatory price reporting law that expires on September 30th of this year, and our first panel will consist of Dr. Kenneth Clayton, Acting Administrator, United States Department of Agriculture, Agricultural Marketing Service, here in Washington.

You have drawn a crowd here, Dr. Clayton. I am sure they are coming to hear you and not Senator Grassley.

[Pause.]

The CHAIRMAN. I welcome you all this morning to our hearing on the Livestock Mandatory Reporting Act. I appreciate our witness making the effort to be here to provide information and testimony, and I want to thank the folks that are listening today as well.

The issue of transparency in livestock markets is a subject of concern to all of us who care about U.S. agriculture. The sale of livestock and related products accounts for more than 50 percent of the total farm gate receipts to U.S. agriculture producers nationwide. Obviously, the vitality of this sector of our agricultural economy is critical not only to the health of rural America, but also to our Nation as a whole. In addition, the export of high-value livestock products contributes significantly to the total balance of trade for the United States.

In the 1980's through the 1990's, the structure of U.S. livestock markets began to change, and non-cash methods of sale increased. Some in the U.S. livestock industry claimed that the existing USDA voluntary livestock price reporting system was inadequate. In response, Congress enacted the Livestock Mandatory Reporting Act, which established a Mandatory Livestock Reporting Program. The Livestock Price Reporting Program has now been in place for almost 6 years. The statute was scheduled to sunset in 2004. Last

year, we extended the program until September 30, 2005, in order to allow us to carefully consider reauthorization.

The committee must now decide whether the Act should be reauthorized and, if so, with what changes. I look forward to receiving the testimony from this excellent group of witnesses, and I am certain that the information we receive will help us in our decision-making process.

Senator Harkin, of course, is not here at the present time, but certainly he will be allowed to make any statement he wishes to make at such time as he gets here.

Would anybody else care to make an opening statement of any sort? Senator Grassley.

STATEMENT OF HON. CHARLES GRASSLEY, A U.S. SENATOR FROM IOWA

Senator GRASSLEY. Thank you, Mr. Chairman, for holding this hearing, and I particularly want to welcome two Iowans who are testifying—Harold Hommes and Jon Caspers.

We are here today in large part with the legislation to be reauthorized because way back in 1999, Iowa livestock producers urged Congress to pass the Livestock Mandatory Reporting Act, the idea to help improve market transparency and giving producers the maximum information so that they know they are getting a fair price for their product.

Since mandatory price reporting was implemented by the U.S. Department of Agriculture in 2001, I have heard from producers across Iowa who question the integrity and the accountability of reported prices under this legislation. While there is a lack of believability regarding the information generated by the mandatory price reporting, nearly all producers across Iowa feel strongly that the information would be valuable if the program had more credibility and improved transparency.

Thanks to producer comments and dissatisfaction with the current program, Senator Harkin and I offered to initiated a Government Accountability Office examination of the Mandatory Price Reporting Program. I then conditioned my support of any multi-year extension or revision of the mandatory price reporting on the GAO study results. Unfortunately, there is a growing pressure from packers and packer lackies to act before the General Accounting Office report is completed.

Under the auspices of consensus, a number of groups serving packer interests are pushing agendas contrary to the interests of Iowa's pork producers and cattlemen. The Iowa livestock community believes any congressional action before receipt and reserve of the Government Accountability Office's report would be premature and would be ill-informed. The goal of reauthorizing should be to improve the existing legislation to the best of our ability. If the non-partisan GAO is not allowed to complete its work before the law is reauthorized, Congress will be neglecting the opportunity to review and reflect upon an exhaustive study.

So let me be clear. Livestock producers in Iowa do not think it is prudent to move forward without substantive review and potential improvement of this current program. Only those entities that

fear transparency should be fighting for a 5–year extension with no consideration of the GAO pending conclusion.

So I thank you again for holding this meeting, Mr. Chairman, and if I could, to you, Mr. Chairman, as you look in the weeks ahead that you are considering reauthorization of this, besides what I said, I would just make a comment off the cuff to you personally, Mr. Chairman, and also to Senator Harkin because he is leading the minority on this committee. We worked to get this bill passed in the first place, and I know, Mr. Chairman, you, just as a Senator, besides being chairman, often find various departments of Government maybe not following congressional intent on legislation that we pass. That is an institutional problem in our system of Government over a long period of time. But with this particular piece of legislation, I do not think I have seen legislation that we have worked so hard to get passed that I have seen end up doing less than the previous law did, and we were trying to improve upon the previous law. I have never seen a conspiracy between the food chain beyond the farmer and the bureaucracy at the USDA than the way the regulations gutted the intent of this legislation that we passed.

So upon reviewing this and reauthorizing it, and as a Senator, I know somebody that wants the bureaucracy to follow what Congress's intent is, that we make sure that the next piece of legislation we pass, that the regulations do not gut it and even go beyond gutting it, doing contrary to what we did, to the point where there is a feeling among our producers in Iowa and southern Illinois that that market reporting information is even less valuable today than it was prior to 1999.

So that is what I would ask the chairman, to consider that history as we reauthorize this legislation.

The CHAIRMAN. As the Senator knows, I have great respect for his opinion on many subjects, agriculture being certainly one of those at the top. And coming from the area of the country that you do where livestock is such a critical product, know that this chairman values your opinion and your input on this topic very highly. And when you are upset about what is going on relative to this issue, let me assure you the chairman is also upset about it.

I think we all share that frustration of working hard to get good legislation passed, and then all of a sudden the bureaucracy does inject itself and put regulations in place that change the initial intent of the legislation. So thank you for those comments.

Senator Harkin?

STATEMENT OF HON. TOM HARKIN, A U.S. SENATOR FROM IOWA, RANKING MEMBER, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Senator HARKIN. Thank you, Mr. Chairman. I just want to concur in the comments of Senator Grassley, not only here, but if you want to see how the bureaucracy has screwed up what we did here in terms of legislation, you look at this and you also look at the Conservation Security Program, what they have done to that over the last 3 years. Hopefully we will get into that some other time.

Mr. Chairman, when we passed this bill, it was to provide more transparency and more competition in the marketplace. We imple-

mented it in 2001. We had some growing pains. But I would say right now it is an integral part of setting prices paid for livestock in the United States, both under contracts and in the open bid system.

As we know, the current authority is set to expire September 30th. That is why I commend you, Mr. Chairman, for having this hearing and starting the process to review this important law.

I think it is generally agreed that mandatory price reporting—MPR, as we call it—is meeting its mandated goal and it should continue. The real question is what can be done to make the program more transparent and identify areas that will strengthen the existing law.

I have heard from many of my livestock producers who want the program to continue, but they have grave concerns that there needs to be better oversight and external review of the program, improved reporting times for the morning and afternoon reports, inclusion of wholesale pork cuts, and an ability for producers to verify that their own livestock were accurately reported in the system.

I have also heard concerns that there is insufficient coordination at USDA among the specific branches responsible for enforcement and compliance activities, which may cause price reports to be less accurate than they should be. The lack of strong oversight in enforcement at USDA complicates Congress' ability to determine whether the problems are due to limitations of the law itself or simply the administration.

So in order to get as many facts as possible for purposes of reauthorizing this law, last year both Senator Grassley and I requested a Government Accountability Office, GAO, investigation to examine issues related to compliance and enforcement activities. Currently, GAO is reviewing the timeliness of required reports filed by packers, given that late filed reports will alter the true prices paid. GAO is evaluating USDA's authority to require accurate reporting of premiums and discounts by packers. They are also evaluating the specific branches responsible for compliance and enforcement at USDA to see if they are actually talking to each other and sharing information.

These are just a few of the issues GAO is examining right now that may need to be resolved legislatively. The GAO report will provide answers that will be very useful for long-term reauthorization of mandatory price reporting. Unfortunately, we find ourselves with a timing issue since the law will expire in September and the GAO report will not be finished until December.

It would be unfortunate for Congress to provide a long-term reauthorization without critical analysis and the facts needed from the GAO audit that reflect the issues that need to be resolved legislatively right now, and preliminary information suggests that is the case.

As the committee moves forward with reauthorization of the Livestock Mandatory Price Reporting Act, I look forward to working with you, Mr. Chairman, and members of the committee to find a suitable solution in regard to the timeframe of extending, changing, and perhaps modifying the existing law.

Thank you, Mr. Chairman.

The CHAIRMAN. Does anybody else have any opening comment they wish to make? Senator Stabenow?

STATEMENT OF HON. DEBBIE STABENOW, A U.S. SENATOR FROM MICHIGAN

Senator STABENOW. Thank you, Mr. Chairman. I would like first just to submit opening remarks into the record.

The CHAIRMAN. Certainly, without objection.

[The prepared statement of Senator Stabenow can be found in the appendix on page 28.]

Senator STABENOW. And I just wanted to indicate that I support the comments of Senator Harkin and Senator Grassley. I think the fact that the GAO is expected to complete a report on this very important program by the end of the year and make recommendations would say to us that it would make sense for us to have an opportunity to look at that report and any recommendations or changes before we would extend for another 5 years this program. So I hope that we will take that into consideration as we are working toward the extension of the program.

I would also just indicate that we have had a number of things that have come up in relationship to implementing laws and implementing parts of the farm bill. We still have not seen specialty crop provisions that deal with commodity purchases that I authored fully implemented. We could go through a number of things where the bureaucracy has not implemented what we put into the farm bill and agreed on in a bipartisan basis. And so I hope that we will take what time is necessary in order to have the opportunity to see the GAO report and move forward together on how we choose to proceed with the program.

Thank you.

The CHAIRMAN. Thank you.

Senator Nelson?

STATEMENT OF HON. BEN NELSON, A U.S. SENATOR FROM NEBRASKA

Senator NELSON. Thank you, Mr. Chairman. I just wanted to make one comment because having dealt with bureaucracy as a Governor and now seeing it back here from the legislative side, it is disconcerting to try to get something through as law only to have the intention, the purpose, and the effect of it totally frustrated by the bureaucratic approach of if they do not agree with it, they will change it. And that is not their focus.

The challenge we have is trying to work with—and I hope Dr. Clayton and others will take the message to USDA, and I am sure the Secretary is fully aware of it as well, and that is, we cannot be dealing with what I call "weebees"—"We be here when you come, we be here when you go"—and will want to do the things the way they want it done rather than the way that law establishes the requirements. And so I hope that that message will be taken back not simply on this. I have been as frustrated about this as anybody has. I join with Senators Harkin and Grassley in the comments. But I would say it would be true of other instances as well. It is not the role of the bureaucracy to improve or write law, but to implement law, whether they agree with it or not.

And so I would just add my comments to what I think are some fairly stern comments about not having to put on the legislation a clause at the end saying, "And we mean it."

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Salazar?

STATEMENT OF HON. KEN SALAZAR, A U.S. SENATOR FROM COLORADO

Senator SALAZAR. Chairman Chambliss, I will submit my statement for the record, and I just want to say a couple of quick things.

First, Mr. Robb, who is here from Colorado, I very much welcome you here to our Nation's capital and look forward to your testimony later on in the panel.

Second, I associate myself with the comments from both Senator Grassley and Senator Harkin and my colleagues with respect to the concerns relating to moving fast forward without the benefit of having the results of the GAO investigation before us.

The CHAIRMAN. Thank you.

We welcome again Dr. Kenneth Clayton, who is the Acting Administrator for USDA's Agricultural Marketing Service. Dr. Clayton holds a Ph.D. in agricultural economics from Purdue University and has served American agriculture in a number of Government positions, most recently as the Associate Administrator for Marketing Programs for the USDA Agricultural Marketing Service and as Acting Administrator.

Dr. Clayton, we are pleased to have you here today. I will have to tell you that we have a vote that we are expecting any minute on the Feinstein amendment, for Senators' information, so we probably are going to have to interrupt your testimony at some point in time. But we welcome you. We look forward to your comments.

STATEMENT OF KENNETH C. CLAYTON, ACTING ADMINISTRATOR, AGRICULTURAL MARKETING SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE, WASHINGTON, D.C.

Mr. CLAYTON. Mr. Chairman, members of the committee, thank you very much. I certainly appreciate the invitation to appear before you this morning to discuss the Livestock Mandatory Reporting Act. I will be fairly brief in my opening remarks. Hopefully that will coincide with the schedule you have identified.

As you know, USDA launched the Livestock Mandatory Price Reporting Program on April 2, 2001. Under this program, USDA's Agricultural Marketing Service receives and manages some 500,000 data elements each day from packers and does so under very tight time constraints. These data are reported by USDA in over 100 daily, weekly, or monthly reports that cover market transactions for fed cattle, swine, lamb, lamb meats, and beef. Currently, there are 116 packers and importers that are required to report. All reporting packers are subject to regular and ongoing audits of their records.

Clearly, the Livestock Mandatory Price Reporting Program has resulted in the release of additional information on pricing, purchasing, and supply and demand conditions for livestock and meat. We are now reporting 85 to 90 percent of the boxed beef market, 75 percent of the lamb meat market, 75 to 80 percent of the steer

and heifer cattle market, 60 percent of the lamb market, and 95 percent of the hog market.

With over 4 years of experience with the Livestock Mandatory Price Reporting Program, USDA, the participating packers, and the users of data provided through this program have been provided an opportunity to gauge the strengths and the weaknesses of the reporting system. For our part, USDA has modified and added reports to provide information in a manner that is most helpful to those who use it. We have had a chance to learn how to manage a system of electronic data transfer that has moved literally hundreds of millions of data elements. We have learned how to screen and process some 500,000 data elements each day moving them into report formats for release within a single hour of receipt.

Through our experience in implementing this program, USDA has identified several areas in which program improvements and enhancements could be made. For example, providing more flexibility in packer and USDA reporting times could be considered as it might allow program reports to better reflect changing market conditions. Also, certain statutory definitions do not delineate as clearly as they might the data to be reported. In other instances, data are required to be submitted by packers even though they could be easily calculated from other data already being provided.

We are also aware that industry groups have been considering possible changes to the Livestock Mandatory Price Reporting Program. Reportedly, a variety of changes have been considered, including: modifying the timing for data submissions and the issuance of reports to reduce reporting burdens and allow reports to better reflect market conditions; separately reporting sows from other swine as well as cows and bulls from steers and heifers; and expanding coverage to include transactions involving pork products.

The President's fiscal year 2005 budget includes funding for the Livestock Mandatory Price Reporting Program, and, of course, as you have noted, the program is authorized through this current fiscal year. USDA is currently developing a legislative proposal that would extend the Act through fiscal year 2007 and in doing so address some of the concerns and changes that could enhance the effectiveness of the program.

During this 2–year extension, USDA plans to conduct an in-depth analysis to evaluate whether mandatory price reporting has addressed the original purposes set forth in the Act. This analysis will provide a basis for USDA recommending any future reauthorizations of the Act.

Mr. Chairman, in conclusion, it is USDA's objective to provide timely, accurate, and unbiased market information to buyers and sellers of agricultural products, for livestock and meat as well as the many other agricultural products that we cover. Such information benefits our farmers and ranchers as well as other participants in the marketplace. Implementation of the Livestock Mandatory Reporting Act clearly has resulted in the release of more information which, in turn, has contributed to greater transparency in the marketplace.

Mr. Chairman, thank you again for the opportunity to appear before you today. We look forward to working with the committee and

interested industry and producers in the reauthorization process. I will be happy to answer any questions that you or other members of the committee might have for me.

The CHAIRMAN. Thank you very much, and I am going to yield my initial questioning time to Senator Grassley for questions hopefully before we go vote.

Senator GRASSLEY. Thank you, Mr. Chairman.

Dr. Clayton, there could be a few packers who have tried to skirt the law. So out of fairness to those firms doing it right, does a report exist to document the violations reported by the Agricultural Marketing Service audit and compliance personnel, say like in the recent 2–year period of time or any period of time you might want to suggest?

Mr. CLAYTON. Senator, let me answer it this way: The data do exist. They do not exist in a report form per se. I can certainly address in very brief fashion, if you would like, some of those results here this morning even.

Senator GRASSLEY. Maybe just a short—well, the fact that they exist is good enough, and I will follow up with you on that point later on.

Mr. CLAYTON. Certainly.

Senator GRASSLEY. How many firms and how many fines have been levied against packers? And if a violation is found, what happens in terms of follow-up to correct the behavior of the violating packing company?

Mr. CLAYTON. There is, in fact, a very regimented process when so-called non-compliances are identified through the audit process. There is a very structured timetable in terms of follow-up with the packer where we may have found a non-compliance. There is an expectation that corrections will be made within particular periods of time.

Over the course of the program, we have, in fact, issued 18 warning letters to participating packers notifying them that if corrections were not made immediately, there would be legal action to follow. And in two instances, we, in fact, have assessed civil penalties against two packers for $10,000, which were held in abeyance provided that no further violations were committed within a 1–year period of time.

Senator GRASSLEY. OK. Are you aware of the 1,150 missing cattle reported to us from Nebraska? Did the Department investigate the incident? And what did the Department discover? And then, last, if a farmer has a concern as to how his or her livestock were reported, could they get confirmation that the livestock they sold was reported correctly by the packer?

Mr. CLAYTON. Senator, if I might, let me start with the second one. I think I can answer that one more quickly.

We do, in fact, welcome inquiry by producers, ranchers who have sold cattle and might have some concern about whether or not that transaction was picked up in our reports. We have fielded those questions since the beginning of the program. We continue to do that. We, in fact, encourage that, within some reason, as an adjunct to our compliance program. The “within reason” part, obviously it takes people, it takes time to research those inquiries. At some point they become overburdening, but as a general statement,

we do welcome those kinds of questions, and we do very much try to respond to them.

As to the Nebraska issue, I am very much aware of the concern that was raised. We did, in fact, investigate that. The cattle in question, in fact, were included in our reports. They were properly reported on the front end at the time that the transaction was negotiated. I think part of the problem there was that the producer, in fact, had negotiated a transaction with a packer, but under the definitions of the statute, that particular arrangement was a forward contract, not a "negotiated transaction."

I think understandably the producer looked to our negotiated price reports and was concerned that his transaction was not there. In fact, it was not because it should not have been. It was a forward contract. It was properly reported to us by the packer. We further researched it and found the lots of cattle in question showed up at the point of slaughter. We could trace them through the reports. There was a small reporting problem as to the way those cattle were reported to us at the closure of the transaction in that they were reported on a dressed basis rather than a live basis. They should have been reported live because that is the way the transaction was originally set up.

But I think importantly, none of that transaction fitted into the negotiated price data that we provide, which I believe is probably the more important benchmark that folks use in developing contractual relationships.

Senator GRASSLEY. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Gentlemen, the vote has been called. It started at 11:02. I think perhaps we ought to go vote and come straight back.

[Recess.]

Senator GRASSLEY. Mr. Chairman, I used my 5 minutes, but could I just have 60 seconds to discuss something with you as well as Mr. Clayton, Dr. Clayton.

The CHAIRMAN. Certainly.

Senator GRASSLEY. I asked this question, if a farmer has a concern as to how his or her livestock were reported, could they get confirmation that the livestock they sold was reported correctly to the packer. Now, I do not have any reason to doubt that Dr. Clayton gave us the answer that he believes is the right answer, but let me read from an e-mail that was between a Brittany Dreier located for the Market News Service there in St. Joe, Missouri, to one of the next witnesses, Harold Hommes. It says, about this can we get this information, it says, "Under the law"—and I am not going to read the whole thing here, but, "Under the law I am not allowed to tell anyone whether those cattle showed up or not"—meaning the 1,150 missing cattle that I was talking about. "This is confidential information that is protected by law. I could track them down to make sure that they did show up, but I would not be allowed to tell you about it. However, if the details of the transaction were fully disclosed, I could at least walk through the reporting process and where the cattle that were purchased, that purchase type would show up."

So, you know, we have an e-mail saying that this is confidential information and the cattle producers cannot get this information. And Dr. Clayton is telling us that it is allowed. So I assume Dr. Clayton, higher up in the bureaucracy, is reporting the accuracy of the law, and so I would expect farmers to be able to get this information in the future, or else if Dr. Clayton has to stand corrected, then he would stand corrected. But I believe him in his testimony.

The CHAIRMAN. Dr. Clayton, do you have any comment on that?

Mr. CLAYTON. Mr. Chairman, if I could just briefly. The statute is very specific in terms of disclosure of any information that USDA receives under this program to the extent that criminal penalties apply to any of our staff who divulge any of that information that is provided to us.

The way that we approach this issue is that if an individual producer who has entered into a transaction involving sale of cattle, hogs, what have you, wants to approach us about a transaction in which he or she was involved, if they can demonstrate to us that they are who they purport to be, and if they can give us something to go on in terms of a sales invoice or something of that sort, we will work with that individual producer to determine whether or not a particular transaction is reflected.

Can we talk to third parties about whether individual transactions are there or not? Our read of the law would be that it restricts us from doing that.

Senator GRASSLEY. Thank you.

The CHAIRMAN. Senator Harkin?

Senator HARKIN. Thanks, Mr. Chairman.

Dr. Clayton, the livestock mandatory price reporting law and the final rules states that livestock are to be reported at the packing plant before the application of any premiums or discounts.

Now, I have heard concerns from a lot of producers that the base price paid by packers is not always being reported as just delivered to the plant. Again, this may not sound that important to many people, but this issue can have profound negative effects on the livestock marketplace.

For example, if a packer pays, say, $71 a hundredweight for hogs but reports to USDA that it bought them for $68 a hundredweight, by splitting off the $3 for a premium, it ultimately depresses the prices paid for all other producers in the marketplace, both for contracts and open market. USDA should have the authority to stop, refuse to report, or correct questionable manipulation of premiums and discounts that affect the true base price paid by packers.

My question is: To what extent is USDA aware of this problem? And what has USDA done within its authority to stop, correct, or refuse to report questionable base prices paid to producers?

Mr. CLAYTON. Thank you, Senator. That is an area where we have had to go through a learning process with those required to report. As you are aware, there are premiums that may apply for a variety of reasons. A portion of them relate to the value of the carcass itself, and it would seem to us that the statute makes clear that those are to be separately identified. Where some arguable ambiguity arose at the outset is what happens in terms of things like transportation costs and should that sort of thing be included or not included in the price which is reported.

Our view——

Senator HARKIN. Excuse me. May I interrupt you there? What transportation costs?

Mr. CLAYTON. Well, you may have a load of hogs that are purchased in California and delivered to the Midwest for slaughter. What is the price of those hogs delivered? I mean, you need a common denominator, I guess is the point, and I think the expectation is that that price will be reported on a delivered basis, which would mean price as they would arrive in the Midwest.

There was some confusion, particularly early on, as to what you did with that transportation cost. We have issued guidance and have at every turn, when we have become aware of it, emphasized that the price reported should include that transportation. We force people to add that in so that you are comparing apples to apples when you are talking about a delivered price.

And certainly, Senator, if I could add, if there are continuing concerns that are being expressed, we certainly would appreciate those being brought to our attention, as that is something that we have tried to be vigilant on and would certainly like to continue to be so.

Senator HARKIN. Correct me if I am wrong. Am I interpreting your statement as saying that the only aspect of this that you are aware of is just the transportation costs, I mean in terms of deductions for premiums and things like that being reported? You don't have any evidence or any knowledge of any of this taking place outside of the transportation issue?

Mr. CLAYTON. I used transportation as an example, and certainly there may be other premiums aside from the carcass merit itself. Our position has been that all non-carcass premiums should be reflected in that delivered price. The carcass merit premiums are reported separately as the statute would suggest.

Senator HARKIN. Are you suggesting that there is too much vagueness in the definition of a non-carcass merit premium in the law? Are you suggesting that? I am asking this just to find out whether or not this is one area that we really have to pay—attention to, and if we have to make some changes in the law on that?

Mr. CLAYTON. Senator, if I could, I think arguably there is a bit of vagueness. We certainly have applied our authority in carrying out that law to try to ensure that all of those non-carcass premiums do get reflected in the price. Certainly any additional guidance from the Congress would be helpful.

Senator HARKIN. Well, and likewise, if your Department has any suggestions on how we might tighten this up to make it work better—I am sure I speak for all of us—we would be open to take a look at what you might suggest for us.

Mr. CLAYTON. Certainly we would be happy to work with you on that.

Senator HARKIN. Thank you, Dr. Clayton.

Thank you, Mr. Chairman.

The CHAIRMAN. Let me ask a question or enter into a dialog with my colleagues here before I ask a question. Senator Grassley, Senator Harkin, you all have requested this GAO study. Obviously you have some real concerns about the way the law is being implemented today. My understanding is that you all would like to see

us extend this law maybe for another 6 months or so until we get that study back before we make any final decision. Is that correct?

Senator GRASSLEY. The answer is we do not want to write a permanent extension of the law for 5 or 6 years until we have it.

Senator HARKIN. That is right.

The CHAIRMAN. And is there the potential to correct problems that you folks want addressed by regulation as opposed to rewriting the law?

Senator HARKIN. I do not know the answer to that question. That is why I was asking Dr. Clayton about this. This is one aspect that I just happened to focus on, the premiums and discounts.

Now, we have put that in the law, but somehow maybe—I have heard that maybe it is a little too vague, but maybe they can handle it on regulations. I do not know. Again, this is part of that GAO study that is coming back. That will help us decide whether or not we need to do something legally in the law or whether it is just regulation. I cannot answer that question.

The CHAIRMAN. OK. Dr. Clayton, my question to you is: What effect will a 6–month, a 9–month extension, whatever we think is appropriate, of the current law have at USDA?

Mr. CLAYTON. As long as the authority is in place, we will certainly keep the program running. We clearly would be concerned were there to be any lapses in that authority because, clearly, that is disruptive to us in trying to run the program. It is disruptive to those who have to report. Certainly in the final analysis, you know, more certainty is preferred to less in terms of the underlying authority for this program, as any other, I suppose.

The CHAIRMAN. So your position primarily is that you need a law, a continuing law in place for whatever period of time the committee may agree to.

Mr. CLAYTON. That would be true, yes.

Senator HARKIN. That is what happened last year, is what you are talking about, that 2–month or 3–month lapse.

Mr. Chairman, that happened last year because of our appropriations process. Since this 1–year extension expires on September 30th, we would have to do something prior to that, hopefully, so that we do not have that 2– or 3–month lapse. I do not know when our appropriations bills will get done. We have to look for some way of doing this so that it is in place before September 30th.

The CHAIRMAN. Is any appropriation involved in the implementation of this?

Senator GRASSLEY. Well, I assumed that we did it on the appropriations bill just as a matter of convenience.

Senator HARKIN. That is right, yes, but then it got held up. I mean, it would get done in time. That was all.

The CHAIRMAN. OK.

[Pause.]

Senator HARKIN. They hot-lined it and got it through separately.

The CHAIRMAN. OK.

Senator HARKIN. Mr. Chairman, I would assume—I was just informed by my staff—I had forgotten all the details of how that went through, but it was to go on appropriations, but appropriations got held up, so they hot-lined it and got it through as a separate bill. And I assume that since they hot-lined it last year and

it got through OK, I assume it would be all right this year. We might do the same thing this year.

The CHAIRMAN. OK. Well, that is an issue we need to stay plugged in—as soon as we get back from the July break, we need to make a decision on this. OK, great.

Dr. Clayton, thank you very much.

Mr. CLAYTON. Thank you, Mr. Chairman.

[The prepared statement of Mr. Clayton can be found in the appendix on page 29.]

The CHAIRMAN. Our second panel is comprised of four individuals, and if you all will please come forward. Mr. Jon Caspers, Pleasant Valley Pork Corporation, Swaledale, Iowa; Mr. J. Patrick Boyle, our friend from the American Meat Institute here in Washington; Mr. Harold Hommes, Bureau of Marketing Chief, Iowa Department of Agriculture and Land Stewardship, Windsor Heights, Iowa; Mr. James Robb, Director, Livestock Marketing Information Center, Lakewood, Colorado.

Gentlemen, to all of you, welcome to the committee this morning. We appreciate your coming to share your testimony with us. Mr. Caspers, we are going to start with you, and, gentlemen, we will go right down the line relative to your testimony.

STATEMENT OF JON CASPERS, PLEASANT VALLEY PORK CORPORATION, SWALEDALE, IOWA, AND PAST PRESIDENT, NATIONAL PORK PRODUCERS COUNCIL

Mr. CASPERS. Good morning, Mr. Chairman, Mr. Ranking Member, and members of the committee. I am Jon Caspers, a past President of the National Pork Producers Council and a pork producer from Swaledale, Iowa. I operate a nursery-to-finish operation, marketing approximately 18,000 hogs per year.

Thank you, Mr. Chairman, for scheduling this hearing to review the Mandatory Livestock Price Reporting Program. I ask that my complete written statement be submitted for the record.

I am here this morning representing the views of the National Pork Producers Council and our members nationwide. NPPC appreciates the opportunity to discuss the reauthorization of the MPR.

Following tremendous structural changes and severe financial crises in both the pork and beef industries in the mid- and late 1990's, many producers believed that the prices reported under the old voluntary system were not representative of the true market price for animals. Producers were looking for a more transparent and accurate price discovery mechanism. At congressional direction, producers and packers hammered out species-specific consensus MPR programs for hogs, cattle, and sheep. The end result was the Livestock Mandatory Reporting Act, or LMRA, or what we now refer to as the Mandatory Price Reporting Program, which was included in the fiscal year 2000 agricultural appropriations bill.

Livestock producers believe that a properly functioning price reporting system should be a mirror to the marketplace. Such a system would not affect the market, but would clearly and without distortion reflect market conditions. The MPR program has provided good and accurate information largely due to the breadth of its coverage on the vast majority of over 100 million hogs, 35 mil-

lion cattle, and 3 million sheep and lambs slaughtered each year in the U.S.

Producers value the amount and breadth of the information generated by the system. We know more today about the number and prices of animals sold under various price arrangements than ever before. We also know more about the physical characteristics such as weights, grade, and leanness of animals than ever before. This information was not available under the previous voluntary reporting system.

We believe that it is imperative that Congress reauthorize the LMRA for a 5–year period well before its September 30, 2005, expiration date.

Last fall, NPPC, along with the American Farm Bureau Federation, the National Cattlemen's Beef Association, and American Sheep Industry Association, submitted joint requests to the Senate and House Ag Committees to extend MPR provisions for a period of 1 year. The request was made so that each group could consider recommendations for reauthorization.

As you recall, the extension of the Act was caught up in last-minute business in both the House and Senate right before adjournment, and it expired on October 22, 2004.

Producers were extremely concerned about the expiration and the potential loss of market information. Most pork packers continued to provide the data required by the Act; however, they had no legal obligation to do so. Congress should not put producers and packers in such a position again, especially when Congress has a clear consensus request for action and ample time to act.

Since late last year, NPPC and these other groups, at the request of the House Agriculture Committee, have worked to reach a consensus to support a 5–year reauthorization. On May 6th of this year, they sent a joint letter to the House Agriculture Committee chairman and ranking member requesting speedy action on the reauthorization of MPR, including three pork industry consensus enhancements supported by NPPC and pork packers. The three consensus enhancements are: No. 1, a new section to increase cull sow and boar coverage to over 80 percent of all sow and boar packing capacity; No. 2, moving reporting and publication times for prior-day slaughter data to later in the day in order to enhance accuracy; and, third, reporting the daily distributions of net prices within narrow portions of the price range that will provide additional detail to the market and more fully characterize price distributions.

In summary, the LMRA generates better information than we have ever had before about prices, quantities, and practices in livestock markets. This data supports decisions that are being made today and will affect livestock markets for years to come. Uncertainty about the nature and availability of market information in the future makes these decisions more difficult and more risky. We must have a stable business environment and foreknowledge of the type of market information available to producers. Therefore, we believe it is imperative for Congress to reauthorize the Act for hogs, cattle, and sheep for 5 years before September 30, 2005, and to include the three pork industry consensus enhancements outlined in my testimony.

Thank you, Mr. Chairman and members of the committee, for your time and attention.

[The prepared statement of Mr. Caspers can be found in the appendix on page 34.]

The CHAIRMAN. Thank you.

Mr. Boyle, always good to see you.

STATEMENT OF J. PATRICK BOYLE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN MEAT INSTITUTE, WASHINGTON, DC

Mr. BOYLE. Thank you very much, Mr. Chairman. Always a pleasure to be here. I appreciate the opportunity to testify before this committee representing the American Meat Institute. We have submitted a statement for the record, and I would ask, Mr. Chairman, that it be included.

The CHAIRMAN. Without objection.

Mr. BOYLE. Also, as an aside, before I begin a summary of my remarks, I would like to thank you, Mr. Chairman, for your continued involvement and engagement in trying to restore trade of U.S. beef exports relating to our BSE crisis. I appreciate your continuing conversations with the Secretary earlier today and your ongoing efforts to try to get us back into those important export markets, so thank you.

AMI members include 250 of the Nation's meat and poultry food manufacturing companies. Collectively, they produce 95 percent of the beef, pork, veal, and lamb food products in the United States, and three-quarters of the turkey processed here in our country.

The meat-packing industry is heavily regulated and intensely scrutinized by the Federal Government with respect to competitive practices within the industry and with respect to our relations with livestock producers.

Long before the Livestock Mandatory Reporting Act became law, AMI opposed this unfunded mandate due to the added costs borne at the packing and processing level, costs that would generate negligible new information, most of which was already available through voluntary price reporting programs. Currently, AMS has hundreds of different commodity reporting programs ranging from 390 fruit and vegetable reports, 37 cotton reports, 51 dairy reports, 94 poultry reports, 31 tobacco reports, all of them voluntary and the vast majority of them submitted on a daily basis.

Meat and livestock are the only reporting programs that are mandatory. The viability and reliability of these voluntary commodity reporting programs, let alone the high volume of cattle and hog contracts traded on the Chicago Merc each day, are a compelling illustration that mandatory livestock reporting is an unnecessary Federal mandate.

I observed, Mr. Chairman, firsthand the scope and effectiveness of the price discovery mechanism through these voluntary market news programs during my 3–year tenure as the Administrator of the Agricultural Marketing Service in the late 1980's.

For that reason, I concur with some of the comments made earlier today by Senator Grassley, his comments to the effect that in some instances the mandatory generated information has actually been less helpful to producers than the information previously

available to them through a voluntary program. AMI's view prior to the passage of the law comports with the comments and observations of Senator Grassley. Mandatory reporting was not likely to provide producers with more useful and helpful information; rather, it would just impose additional costs on packers and processors.

I do, however, Mr. Chairman, wish to differ with some of the other comments made here today regarding the implementation of the statute at the Department of Agriculture.

The statute passed by Congress more than 5 years ago was highly prescriptive, giving USDA very little implementation discretion. In fact, the statute is an 80–page law. That is a lot of statutory provisions to convert a long-standing voluntary program simply into a mandatory program.

For example, on page 59 of this statute, there is a reference to mandatory reporting for live cattle. That provision sets forth specifically the number of reports each day a packer must submit per plant; that would be two; the time of day that the packing plant must submit the report each day; that would be no later than 10 a.m. Central time and no later than 2 p.m. Central time; and the prices for cattle that must be reported. They need to include the type of the purchase, the quantity of the cattle, the quantity of the cattle purchased on a dressed weight basis, on a live weight basis, a range of the estimated live weights of the cattle purchased, an estimate of the percentage of the cattle purchased that were of a quality grade of choice or better, and any premiums or discounts associated with weight, grade, or yield, or premiums and discounts associated with any type of purchase, which I think was the focus of Senator Harkin's area of questioning just a few moments ago.

This is a fairly detailed and prescriptive statute, and that is one of the reasons that complying with it and implementing it has cost the packers and processors a fair amount of money to develop the appropriate reporting systems.

Although AMI has always opposed this mandate, our organization worked, I believe, constructively and cooperatively with the Department of Agriculture and our member companies to help implement and continue to comply with the law. For example, last year, when the law expired for about a month or so, AMI recommended strongly to all of its member companies that they continue to report, and to the best of my knowledge, they continued to report voluntarily during that 4–week suspension of the mandatory statute.

Despite our long-standing opposition to the mandate, we do have political antennas at the American Meat Institute. We acknowledge the political reality of support to reauthorize this statute for an additional 5 years. We have been working with our membership as well as with livestock producers to develop consensus legislation to reauthorize the Act.

As Mr. Caspers stated, AMI is one of the groups that has participated in that discussion, has developed support for consensus language, and we would encourage the Congress to act before the current statute expires to reauthorize this mandate for 5 more years.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Boyle can be found in the appendix on page 40.]

The CHAIRMAN. Mr. Hommes.

STATEMENT OF HAROLD HOMMES, BUREAU CHIEF, IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP, WINDSOR HEIGHTS, IOWA

Mr. HOMMES. Good morning, Mr. Chairman, Senator Harkin, and members of the committee. If I might, Mr. Chairman, I would also like to recognize my other Senator from Iowa, Senator Grassley.

My name is Harold Hommes. I am the Marketing Bureau Chief at the Iowa Department of Agriculture and Land Stewardship. We sincerely appreciate your seeking our input into this important discussion.

My responsibilities at the Department include the reporting of cash grain and livestock markets for the State of Iowa. We do this through a formal cooperative agreement with the Market News Branch of USDA Ag Marketing Service. The Livestock Mandatory Price Reporting Act of 1999, however, is a uniquely Federal responsibilities that we at the State level have no involvement.

We believe that the Act has contributed significantly to better and more visibly market information for producers and may even be a contributing factor in the relatively less volatile market conditions that now exist for livestock producers.

However, from our discussions with various producers and producer groups, we have come to believe that some changes to the Act are warranted.

No. 1, if you would allow me to highlight our concerns, the inability to confirm that a trade is reported. One primary concern is the inability of an individual producer to confirm or verify that his or her livestock transaction was indeed reported and reported correctly to the AMS. During recent communications with the AMS staff at the St. Joseph office, I was informed that even if a producer were to share his or her actual settlement sheets with the AMS, they would not be able to confirm that the sale was reported and/or reported correctly. The personnel in that office explained to me that they and USDA counsel believe that they do not have the authority under the existing law to share that information, even with the producer who is part of the transaction. If that assessment is indeed correct, I believe we need to consider changes to the law.

No. 2, transparency and enforcement appear to be lacking. Under the current framework, there are no provisions or requirements for public accountability of violations. The Livestock Mandatory Price Reporting Act does have provisions for enforcement and fines, but it appears that no one is actively engaged in enforcement of the law. One option would be to implement scheduled fines and make public specific violations. This would ensure impartial enforcement of the law and enhance compliance.

We would suggest that an annual independent and out-of-house audit be conducted and made public. At minimum, the audit should include the nature and number of findings and how they are resolved.

No. 3, the inclusion of wholesale pork cuts. For the past 5 years, we have remained concerned about the lack of inclusion of wholesale pork cuts in the existing law. Despite the inclusion of boxed

lamb and boxed beef in the law, we still do not have mandatory reporting of pork cuts. We would ask your support to have pork primals, sub-primals, and case-ready pork public sector included in any new or updated version of the Mandatory Price Reporting Act. This should be included even in a 1–year reauthorization.

No. 4, an ongoing investigation. As you are no doubt aware, there is now an ongoing Government Accounting Office investigation of the Mandatory Price Reporting Act. It is my understanding that a final report will be provided later this year. We would urge you to give the findings of that report due consideration. We are hopeful that their report may provide more insight into some of the concerns that we have raised here today.

Some groups are now advocating a 5–year extension to the existing law. It is our recommendation, however, that the authorization be extended for only 1 year to ensure the valuable input of the GAO. It seems that moving forward without that input would be nothing short of a waste of taxpayer dollars.

By waiting 1 year, we would all be in a much more informed position, and together we would likely be much more successful in framing an improved program.

In conclusion, I would like to reiterate our ongoing support for the Livestock Mandatory Price Reporting Act of 1999. Our primary concerns like with the issues surrounding transparency, enforcement, and the additional of wholesale pork cuts. Rather than extending the Act for a longer period of time, we urge patience. We are willing to wait another year in the hope that the GAO will provide additional guidance and recommendations.

I am hopeful that the House Agriculture Committee will join you in seeking the valuable input of the GAO.

Thank you again for this opportunity. I appreciate your time. I will yield.

[The prepared statement of Mr. Hommes can be found in the appendix on page 42.]

The CHAIRMAN. Thank you.

Mr. Robb.

STATEMENT OF JAMES G. ROBB, DIRECTOR, LIVESTOCK MARKETING INFORMATION CENTER, LAKEWOOD, COLORADO

Mr. ROBB. Mr. Chairman, members of the committee, I am very pleased to be here today to share insights from the members and staff of the Livestock Marketing Information Center on the USDA Mandatory Livestock Reporting Program. The Livestock Marketing Information Center is a cooperative effort of 24 land grand universities, six USDA agencies, and associate livestock industry organizations. We have been providing a continuous flow of market analysis and data for 50 years. Each cooperating institution has a designated professional who serves as a member of the Center. This effort allows reduction in duplication of effort while maintaining regional and local expertise on livestock markets.

We feel it is a high priority that all aspects of mandatory price reporting legislation be continued. Further, that continuation should be for a multi-year timeframe, which will reduce market and market participant uncertainty, including those of USDA agencies.

From a broad perspective, market transparency provides a foundation for efficient markets. Transparency occurs when relevant prices and transaction conditions throughout the marketing chain are readily available. Government available price reporting has proved successful because: access is ensured to all market participants; second, concerns about manipulating the data are minimized; and, third, it obviously greatly reduces the costs of individuals maintaining background information on market conditions. USDA has had major involvement in livestock price reporting since the 1940's. Until MPR was legislated for livestock in 1999, the system was based on voluntary price reporting, with collection, evaluation, and synthesis of data by professional USDA market reporters. Largely because of changes that were occurring in the slaughter hog and cattle marketing arrangements, including formulas and forward contracts not being captured with the traditional voluntary system, MPR was legislated.

Today, the MPR system effectively provides timely and critical livestock market information on prices that do reflect the underlying supply and demand conditions in the marketplace. But early on, the system had several problems, and the evolution of the marketing reporting system has taken time. Problems included defining confidentiality, accuracy of reports, terminology used in those reports, and report release times. Each year, MPR data, though, has become more and more integrated into the livestock and meat markets. Small local cooperative producer groups that focus on organize and natural niche markets rely on MPR to set base prices for their slaughter animals. Also, large multinational companies use MPR to set their invoicing and automatic billing of many of their customers. So changing major aspects of the price reporting system is not only costly for USDA agencies, but also for the firms that must compile, report, and also distribute and synthesize that data into their marketing information systems.

Compared to the prior voluntary price reporting system, MPR has greatly enhanced price discovery and has added to the depth and breadth of available market data and information. Accuracy of the price data for the livestock and meat industry has improved. The major tradeoffs have been in the area of timeliness of data, especially slaughter animal reports. But market participants and analysts raise fewer and fewer of those questions each year since MPR has been implemented, indicating that in many ways they have compensated for some of those changes.

Overhaul of the system we do not think is necessary. In fact, that could be a detrimental step. But the livestock and product markets continue to evolve, and the price reporting system must also continue to evolve.

Based on what we know today, improvements can be made, but we feel no major changes are required in MPR. The recommendations we would make here should be considered but not a necessary requirement for continuation on a multi-year basis of existing legislation. I will highlight three areas that consistently are brought up by our members and staff.

First of all, this wholesale price reporting on pork cuts and pork items which is not included in the current legislation, the consensus is that that should be added to MPR.

MPR has many dimensions, and one of those other dimensions has to do with retail price reporting. That is the secondary data system and does not require retailers to actually report data, and that has been a test pilot program done by Economic Research Service, which is now completed. We think that needs to be an ongoing effort. And if we could suggest one addition to that effort, it would be to include along with beef, lamb, poultry, pork, and other prices, dairy products with that system.

Thank you very much.

[The prepared statement of Mr. Robb can be found in the appendix on page 45.]

The CHAIRMAN. Thank you.

Senator Harkin.

Senator HARKIN. Jon Caspers, let me go over something with you here. I have got some reports here that I want to cover.

I have heard concerns from producers about the timing of reports. Now, in the law we have the morning report and we have the afternoon report. It is very prescriptive. And then there is a comprehensive report, called the prior day's report. So there are three reports—morning, afternoon, prior-day report.

Now, what has happened, since the reporting times are not equal for the morning and afternoon reports, many bids, I have found, are not being made until after the release of the afternoon report. So you have the afternoon report, then you get a lot of bids that come in. But bids made after the release of the afternoon report are not known until the next day with the release of the prior-day report.

So I have heard of situations where buyers will wait to bid higher-priced hogs until late in the day to avoid reporting until the next day. So this causes higher-priced hogs to not be included in either the morning or afternoon reports.

So it sets up an inherently tilted system for producers since most contracts are based on the morning report. By comparing the morning, the afternoon, and the prior-day reports, the morning report is almost always the lowest, and yet contracts are based on that. So I have here three reports from in June. Here is the morning report, base price, weighted average, $67.98. I have here the afternoon report, weighted average, $68.78. Then I have the prior day's report that came out, weighted average, $69.64. But the contract is based upon the morning report, which was $67.98. But the prior day's report said the weighted average was $69.64.

So, again, I ask this again: Are you aware of the problems with the morning report? Will the National Pork Producers be making any recommendations about this and how we might get a better reporting system? I know we prescribed it in the law, but I am just wondering. This is not fair. This strikes me as inherently unfair.

Mr. CASPERS. Well, just to say, as producers, I think we have recognized that for a long time, and I suspect that the same conditions existed under the old voluntary program. There were producers that had suspicions of the same thing. And, in fact, under the old voluntary program, pigs that were sold after the publishing of the afternoon report never actually even had a home to be reported in. And so today, with the prior-day report that comes out early in the morning, it does capture all the trades that take place.

I think Dr. Glen Grimes down in Missouri has studied that quite often, and his recommendation—and he has talked in public sessions and been published widely in the trade press—has suggested that producers not base their contracts on the morning reports and, in fact, more and more as they recognize the differences, are trying to base their contract prices on reports that encompass the entire volume of hogs traded. And if you go and use the prior-day report that comes out early morning, then your contract prices would be based on the entire amount of hogs traded in that business day and is probably a much sounder basis in which to price your pigs under contract.

Senator HARKIN. Does anyone else have any views on this?

Mr. BOYLE. I would just concur with what Mr. Caspers said. From a packing perspective, we concur with his observations.

Senator HARKIN. So are you saying that contracts then should be shifted and based on the prior-day report?

Mr. BOYLE. No, but I think Mr. Caspers is correct in his observation that more producers are working with packers to base their contracts on the morning report of the prior-day activities.

Senator HARKIN. That is what they are doing now.

Mr. BOYLE. They are moving in that direction, yes.

Senator HARKIN. But I am saying that the morning report is inherently unfair.

Mr. BOYLE. No, the morning report of the prior day's total sale.

Senator HARKIN. Oh, I see, the prior-day report.

Mr. BOYLE. That would encompass the morning and the afternoon report.

Senator HARKIN. OK, the prior. Well, but how are we going to do this since contractors usually take it or leave it, either take the morning or not? I am asking do we need to do something legislatively. I mean, contracts are basically take it or leave it contracts.

Mr. BOYLE. I have a view of contracts from a packer's perspective, and I think it is the generally recognized view in contract law that contracts are the arrangements between two consenting parties. We have an increasing number of contracts, as you well know, Senator, with our pork producers as well as with cattle producers, that are designed to provide benefits to both parties under the terms of that contract.

Mr. CASPERS. If I could add also, Senator, we have tried to make our members and producers aware of some of the obstacles and recommend that they use the prior-day report. Certainly it is a better report to base that on, and those contracts have been available and a lot of packers have actually either moved away from the morning report to the afternoon report or the prior day. But we have been able to get those contracts put in place.

Senator HARKIN. So you are saying, you are telling me that from the producer's standpoint, there is nothing that we need to look at legislatively to deal with this problem?

Mr. CASPERS. Well, the difficulty is you are dealing with the marketplace, and if you change the times of reporting, the market just adjusts. And I think you have the same—buyer and the seller in the marketplace all have different goals.

Senator HARKIN. Right.

Mr. CASPERS. And so it is just the marketplace at work, and we have told producers for a long time they maybe ought not to use the morning price report because it is a very thin market, it is based on very few pigs. Certainly the buyers are reluctant to push the bids, and later in the day if they are short, you know, they start to bump prices. It is just the marketplace at work.

But I think, again, it is an education process. We tried to convince our producers that they need to move to—if they are basing a contract on some kind of a published report, it needs to be based on the entire scope of pigs that are reported under the price system.

Senator HARKIN. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Grassley.

Senator GRASSLEY. I would start out with Mr. Caspers. You know, because there are some differences of opinion between like some members of the Iowa—and I suppose other States as well, from the National Pork Producers Council position on this legislation, could you tell me approximately or how you determine at the national level to support an extension of this legislation the way you have as opposed to some of your other producers?

Like, for instance, do you know how many pork producers groups support your recommendations of the National Pork Producers Council?

Mr. CASPERS. Well, I am not aware of a poll we have done of our State organizations. I believe you are correct with the Iowa organization and their opinion. I am probably not as familiar with Senate procedures as I could be, I guess, but it occurs to me that last fall, with the difficulties of getting the legislation reauthorized, we had a gap there where we had no legislation in place, and I think there is quite a risk to the marketplace that you could essentially have a collapse of the system, I guess, without that underlying legislation in place. And there are so many contracts our producers have today that it appears in my mind, I think, that a longer extension would just give more certain to the marketplace and we would have that underlying legislation in place. And if after this the GAO report, whenever that becomes available, if there are fundamental problems that are found or changes that ought to be made, certainly at that point there is nothing to prohibit USDA or Congress themselves from enacting those changes.

Senator GRASSLEY. Could I also ask you then, along that line, we have been talking in your case 5–year extensions; Senator Harkin and I have just been suggesting here an extension long enough to get the GAO report in for consideration. And my question would be: If some producers support a 5–year extension, wouldn't they also support a shorter extension, let's say 6 months or 1 year, to consider the findings of the GAO report?

Mr. CASPERS. Well, again, our suggestion is that you extend it for a long period of time and still be able to come back and take a look at the report and, if need be, you and/or USDA could act to correct any problems that are found under the investigation of the GAO.

Senator GRASSLEY. OK. And, Mr. Hommes, I am going to follow on to a question that Senator Harkin asked a couple other people, and just for your comment and consideration. Have you heard any

complaints from producers regarding how formula price pigs are calculated?

Mr. HOMMES. Yes, I have, sir. We believe that in both cases it is a limitation that AMS has to live with, and I think the law itself requires a 14–day requirement for negotiated hogs. Anything beyond that is traded a number of ways. It could be traded as packer-owned. It could be traded as a forward contract, formula-priced hog. But the 14–day negotiated basis is clearly a concern in that if it were longer—and I noted that Mr. Robb's comment that there could be other provisions put in place. We think that moving to a 30–day or possibly a 60–day, there are more cash-negotiated contracts that are certainly more than 2 weeks ago. And they should be treated as that.

Unfortunately, the law now requires that they be put into another form, and it does somewhat tie AMS's hands, and I think there are certainly ways that that could be remedied. And, unfortunately, the cash trade is what they are settled off of so much, oftentimes a 3–day rolling average or a weighted average of what USDA publishes. So it is very important that that be accurate and that, you know, when we are looking now at only 10 percent of all the market hogs sold currently are reported that way under a cash-negotiated basis, if we can move from 14 to 30 days, we will probably have 20 percent of the hogs reported on a cash basis.

So, yes, I think there are some things, but I recognize that AMS does have some limitations on how they are treated. But we need to have an open discussion on that. It is one of the issues that I would hope might be highlighted by the GAO.

Senator GRASSLEY. And my last question would be to Mr. Boyle. I am anxious to understand from your point of view the fact that your organization previously had opposed mandatory price reporting, so today you are before us supporting only a 5–year extension. What changed your organization's position?

Mr. BOYLE. It is a stunning posture in which to find the American Meat Institute, isn't it, Senator? We actually for a number of reasons, which I articulate in my statement, opposed the mandate due to added cost without discernible benefits. I think some of your producers in Iowa have the same point of view, and you articulated that at the start of this hearing.

But at the end of a 5–year statutory period with a 1–year extension that the Congress passed to keep the program in place, it seems inevitable, politically inevitable to us that the Congress is going to reauthorize the mandate, we would hope for another 5 years. The huge costs that are incurred by packers and processors, the largest costs incurred by packers and processors, are incurred at the implementation phase of a new regulatory obligation. Those costs have been incurred. We have ongoing maintenance costs going forward, but the big expenses are behind us. We are complying with the law. It is part of our way of doing business. We are supportive of reauthorizing the law.

I will be perfectly candid with you, Senator. We would like a law that is reauthorized with minimal changes in the existing requirements, because new requirements, additional obligations raise the specter of once again additional implementation costs for the packers and processors. And if a bill of that sort would begin to emerge

through the legislative process, my board might want to reconsider their support for reauthorization. But if it is the current bill with minimum changes, we are spending the money now to comply; we are happy to continue to do so under the current regulatory and statutory regimen.

Senator GRASSLEY. Thank you, Mr. Chairman.

The CHAIRMAN. Gentlemen, it appears that the biggest disagreement among our witnesses is the time for which the current law ought to be reauthorized, and you have heard our colloquy here today among Senator Grassley, Senator Harkin, and myself relative to waiting for the GAO report to come back before we have a lengthy extension or reauthorization of current law.

I would just like, for the sake of clarity and the record, for each of you to coment very quickly on what you think about the time line for reauthorization. Should it be for 5 years or do you have a problem with doing it for 6 months, a year, or whatever it takes to get the GAO study back and incorporate the ideas that may come out of that? Mr. Caspers?

Mr. CASPERS. Yes, Mr. Chairman, we have asked for a 5–year extension, and it is essentially just to put some certainty into the marketplace. If I as a producer have a contract where the price is based on a published report of USDA and all of a sudden the underlying legislation goes away, even whether it is just somewhat inadvertently because it gets tied up in last-minute business at the end of the session, I think that represents quite a danger to our price structure and market reporting system and how we price pigs. And a lot of producers are rightly concerned about that. So that is why we have asked for the 5–year extension so that we do not have to face these annual reauthorizations, essentially.

It would seem to me that, irregardless of whether it is extended for 1 year or 5, it really does not impact the ability to come back and change the law or the regulations if need be based on the GAO report. I think we are certainly supportive of that report. I think it needs to be analyzed carefully when it comes out, and if there are improvements or adjustments that need to be made, we would certainly be willing to take a look at those and offer any recommendations. But certainly it does not impinge Congress's ability to come back and change the law or USDA's ability to change rules and regulations, even if it is extended 5 years.

The CHAIRMAN. Mr. Boyle?

Mr. BOYLE. Well, AMI agrees with NPPC and with NCBA, the American Sheep Industry Association, the Farm Bureau Federation. We have all worked together for the last 2 years to review existing law, critique the statutory language and the USDA regulations. We are comfortable with a reauthorization of 5 years of the existing statute with some modest changes that we have agreed upon through those 2 years of discussions. And for the reasons that I articulated a moment ago to Senator Grassley's question, we have incurred the costs to implement this program. Right now it is a cost of doing business on a go-forward basis. We are paying those costs. We are complying with the regulation. The program is here today. We are comfortable to see it here for another 5 years.

The CHAIRMAN. Thank you.

Mr. Hommes?

Mr. HOMMES. In my statement, I indicated that we were supporting—we are asking for a 1–year extension. Frankly, there is no magic timeframe. All we are asking for is that the wisdom and the counsel of the GAO be given proper consideration, and that everyone have time to look at that report, give it 60, 90 days. Once that occurs, we can have again a more open debate, all be more informed of what they are doing right, what may be going wrong. I think we can have this discussion and everyone can have their input. And at that point whether it is 1 or 5 years, we wouldn't have any problem.

The CHAIRMAN. OK. Mr. Robb?

Mr. ROBB. In my formal testimony, Mr. Chairman, we wrote down 4 years, but we are really not tied to that number. We think multi-year is important, and that is really input from the 24 land grand universities livestock extension economists that deal with this every day. And so we are looking—we are recommending that you consider a multi-year timeframe. Thank you.

The CHAIRMAN. OK. Well, I think, gentlemen, you can see by virtue of the fact of who is here asking questions where the interest primarily comes from relative to this issue. And certainly Senator Harkin and Senator Grassley, as the primary proponents of the original law, are going to have significant influence on the members of this committee as to what we do. And I do not know what we will do. I think we will all need to get our heads together in a short time to make that decision.

But the one thing, I think, that all of you can take to the bank with you, as you say, Mr. Boyle, the political landscape is such that we are going to have this law. So whether we do it for 1 year with the idea of coming back with a 5–year extension or whether we do 5 years with the idea of modifying based upon the GAO report, I don't know. We will have to make that decision. But from a certainty standpoint, I think it is pretty certain that this law is going to be in place and we are going to have to deal with it.

I really appreciate all of you being here. I appreciate your patience in allowing us to interrupt the process for a vote. And I thank you very much.

We will leave the record open for 5 days for any additional questions or any additional statements that needed to be submitted by anyone.

With that, this hearing is concluded.

[Whereupon, at 12:20 p.m., the committee was adjourned.]

APPENDIX

JUNE 22, 2005

Statement of United States Senator Debbie Stabenow
Senate Agriculture Committee Hearing on
the Livestock Mandatory Reporting Act
June 22, 2004 10:30am

Mr. Chairman, thank you for calling this hearing today.

The Livestock Mandatory Reporting Act expires in September of this year. We all think that the program is valuable and we all want it to be reauthorized. We are, however, faced with the choice of extending the current law for another year, or reauthorizing it for another five years. I am looking forward to hearing from our witnesses about their views on the reauthorization.

In addition, I recall that last August Senator Harkin and Senator Grassley asked for a General Accounting Office (GAO) audit of the Mandatory Reporting program. I believe that this report is expected to be completed before the end of the year and I am looking forward to reading its conclusions.

Mr. Chairman, I know that you support a 5-year reauthorization for the Mandatory Price Reporting program. And I know that Senator Harkin would prefer to grant another one year extension while we await the GAO report and work on the changes to the law that have been suggested. I think Senator Harkin's strategy makes sense for creating good public policy. My concern with a 5-year reauthorization is that we won't have another chance to act on GAO's recommendations and fix problems with the program. So I hope that we can work together on a one year extension with a commitment to expedite our work on a full reauthorization, which will provide stability to the market.

Thank you, Mr. Chairman

TESTIMONY OF
DR. KENNETH C. CLAYTON
ACTING ADMINISTRATOR
AGRICULTURAL MARKETING SERVICE
MARKETING AND REGULATORY PROGRAMS
U.S. DEPARTMENT OF AGRICULTURE

BEFORE THE
SENATE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY
JUNE 22, 2005

Mr. Chairman and members of the Committee, good morning and thank you for the opportunity to discuss the Livestock Mandatory Reporting Act of 1999 (Act).

The Act became law on October 22, 1999, as an amendment to the Agricultural Marketing Act of 1946. The Act authorized the Secretary of Agriculture to establish a mandatory reporting program that requires large packers and importers to report to USDA the details of their transactions involving purchases of livestock, as well as sales of boxed beef, boxed lamb, lamb carcasses, and imported lamb cuts. USDA launched the Livestock Mandatory Price Reporting program on April 2, 2001.

Under this program, USDA's Agricultural Marketing Service receives and manages some 500,000 data elements each day from packers, and does so under very tight time constraints. These data are reported by USDA in over 100 daily, weekly or monthly reports that cover market transactions for fed cattle, swine, lamb, lamb meat, and beef. Currently, there are 116 packers and importers that are required to report. All reporting packers are subject to regular and ongoing audits of their records.

Prior to the Act, USDA had a livestock and meat reporting system that relied on information collected by telephone and in person from industry participants who agreed to participate on a voluntary basis. Market participants were not obligated to provide all sales or purchase information and could choose to selectively report purchases or sales that might promote their position in the market. The information gathered was predominately that of negotiated cash transactions which were, and continue to become, an increasingly smaller share of livestock and meat transactions.

The Livestock Mandatory Price Reporting Program has resulted in the release of additional information on pricing, purchasing, and supply and demand conditions for livestock and meat. We are now reporting 85-90 percent of the boxed beef market, 75 percent of the lamb meat market, 75-80 percent of the steer and heifer cattle market, 60 percent of the lamb market, and 95 percent of the hog market.

As you are aware, the statutory authority for the Livestock Mandatory Price Reporting program lapsed on October 22, 2004. Because of the possibility that Congress would reauthorize this program, AMS approached those required to report under the Act to ask for their continued reporting on a voluntary basis until the Act was reauthorized. All but eight packers agreed to do so. From our discussions with the packers that agreed to continue reporting, it was clear that they participated because of the concern that they would shut down their reporting systems only to be required to report again in the future. It also should be noted that although most of the reports were continued on a voluntary basis, a lack of participation by some packers

of cow beef trimmings and cuts did prevent release of daily prices due to confidentiality constraints.

With over four years of experience with the Livestock Mandatory Price Reporting Program, USDA, the participating packers, and the users of the data being provided have had an opportunity to gauge the strengths and weaknesses of the reporting system. For our part, USDA has modified and added reports to provide information in a manner that is most helpful to those who use it. We have had a chance to learn how to manage a system of electronic data transfer that has moved hundreds of millions of data elements. We have learned how to screen and process some 500,000 data elements each day moving them into report formats for release within a single hour of receipt.

Through our experience in implementing this program, USDA has identified several areas in which program improvements and enhancements could be made. For example, providing more flexibility in packer and USDA reporting times could be considered as it might allow program reports to better reflect changing market conditions. Also, certain statutory definitions do not delineate as clearly as they might the data to be reported. In other instances, data are required to be submitted by packers even though they could easily be calculated from other data already being provided.

We are aware that industry groups have been considering possible changes to the Livestock Mandatory Price Reporting Program. Reportedly, a variety of changes have been

considered, including: modifying the timing for data submissions and the issuance of reports to reduce reporting burdens and allow reports to better reflect current market conditions; separately reporting sows from other swine as well as cows and bulls from steers and heifers; and expanding coverage to include transactions involving pork products.

The President's FY 2006 Budget includes funding for the Livestock Mandatory Price Reporting Program. Currently the Program is authorized through FY2005. USDA is currently developing a legislative proposal that would extend the Act through FY 2007, and address some of the concerns and changes that could enhance the effectiveness of the program.

During this two year extension, USDA plans to conduct an in depth analysis to evaluate whether mandatory price reporting has addressed the original purposes set forth in the Act. This analysis will provide a basis for USDA recommending any future reauthorization of the Act.

In conclusion, it is USDA's objective to provide timely, accurate, and unbiased market information to buyers and sellers of agricultural commodities – for livestock and meat as well as the many other agricultural products that we cover. Such information benefits our farmers and ranchers as well as all other participants in the marketplace. Implementation of the Livestock Mandatory Reporting Act of 1999 clearly has resulted in the release of more information which, in turn, has contributed to greater transparency in the marketplace.

Thank you again for the opportunity to appear before you today. We look forward to working with the Committee and interested industry and producers in the reauthorization process. I will be happy to answer any questions you or other Members of the Committee may have for me.

Statement of

Mr. Jon Caspers
Past President
National Pork Producers Council
Before
United States Senate
Committee on Agriculture, Nutrition, and Forestry
Hearing on
Mandatory Livestock Price Reporting
June 22, 2005

Good Morning, Mr. Chairman, Mr. Ranking Member, and Members of the Committee:

I am Jon Caspers, a past President of the National Pork Producers Council (NPPC) and a pork producer from Swaledale, Iowa. I operate a nursery-to-finish operation, marketing 18,000 hogs per year.

I would like to thank the Chairman for scheduling this hearing to review the U.S. Department of Agriculture's Mandatory Livestock Price Reporting Program. I am here this morning representing the views of the National Pork Producers Council (NPPC) and our members nationwide. NPPC appreciates the opportunity to further discuss the reauthorization of the mandatory livestock price reporting system and three proposed pork industry consensus program enhancements.

History of Mandatory Price Reporting

Severe financial crises in both the pork and beef industries in the mid- and late-1990s were the final drivers of mandated price reporting. Tremendous changes in the structure of both the packing and production sectors, the latter being especially true in the pork industry, had led many producers to believe that the prices reported under the old voluntary system were not representative of the "true" market price for animals. The only solution to a system which they perceived to be selective in the information it included was to implement a mandatory system which collected and published information on virtually all of the animals traded.

It was in response to this perceived need for more market transparency and more efficient and accurate price discovery that producers and packers worked together to draft and pass the Livestock Mandatory Reporting Act of 1999 (LMRA). Congress instructed industry groups "to decide something among yourselves that all of you can live with." Producers and packers hammered out a very specific system for cattle and hogs while sheep producers felt it best to pass

general requirements and allow the Secretary of Agriculture to establish specific regulations.

We were committed to developing a timely, accurate and transparent price reporting system. The process started in late March of 1999 in a meeting at NPPC headquarters. More than 100 hours of in-person and conference call negotiations between producer representatives and major packers ensued. The result was the pork section of the LMRA which was unanimously approved by the Senate Agriculture Committee on July 29, 1999, and included in the FY 2000 Agriculture Appropriations bill that was signed into law on October 27, 1999.

The mandatory price reporting system created by the LMRA has generated information of great breadth and depth. We now gather and disseminate price information on the vast majority of cattle, hogs and sheep traded each day and we now know the numbers of animals, average and range of prices and many more information items for a wide array of different pricing mechanisms in all three species. Those are data we never knew under the voluntary system which only covered negotiated or cash trades.

How Program is Working Now

Livestock producers believe that a properly-functioning price reporting system should be a mirror to the marketplace. Such a system would not affect the market, only reflect what happens. It would do so clearly and accurately without distortions day in and day out. In addition, it would reflect everything about the marketplace. There would be no blind spots or invisible transactions.

After early difficulties in meeting the confidentiality requirements of the LMRA, this system has and continues to function well in delivering what we believe to be accurate, timely, broad information about the sales of cattle, hogs and sheep in the U.S. It is not perfect because it relies on fallible people and machines.

However, NPPC believes that, over the course of its life to date, the mandatory system has provided good and accurate information – at least as good as the voluntary system it replaced – largely because of its breadth of coverage and the careful thought invested by its framers. The systems created by this legislation capture such information on the vast majority of over 100 million hogs, 35 million cattle and 3 million sheep and lambs that are slaughtered each year in the U.S.

Producers value the amount and breadth of the information generated by the system. We know more today about the number and prices of animals sold under various price arrangements than ever before. We also know more about the physical characteristics such as weights, grade, and leanness of animals than ever before and know much of this by purchase type and by geographic region. The reports have been consistent and timely, in that they meet the times specified by the law.

Some market participants will disagree with this viewpoint. Wherever evidence supports such disagreement, Congress, USDA, producers and packers should work diligently to correct problems.

The goal of LMRA today is to provide solid, accurate, timely market data on as many animals as possible to the public in order to facilitate good business decision-making. NPPC believes that the goal has been met. We will defer to USDA regarding the actual performance of reporting entities.

Reauthorization for Five-Years

We believe it is imperative that Congress reauthorize the LMRA for a five year period and that you do so well before its September 30, 2005 expiration date.

The LMRA was scheduled to expire on Oct 22, 2004. NPPC along with the American Farm Bureau Federation, National Cattlemen's Beef Association, and American Sheep Industry Association submitted requests to then-Senate Agriculture Committee Chairman Cochran and House Agriculture Committee Chairman Goodlatte to extend the mandatory price reporting (MPR) provisions for a period of one year. The request was made in order to consider recommendations for reauthorization. NPPC has been engaged in a year-long process to review the MPR provisions with its MPR subcommittee consisting of producers, packers, and economists.

As you recall, the extension of the act was caught up in last-minute business in both the House and Senate right before the adjournment of the 108th Congress. The LMRA expired on October 22, 2004.

Producers were extremely concerned about the expiration and the potential loss of market information. Most pork packers continued to provide the data required by the LMRA but they had no legal responsibility to do so. Congress should not put producers and packers in such a position again, especially when Congress has a clear consensus request for action and ample time to act.

Since late last year, the National Pork Producers Council, National Cattlemen's Beef Association, American Sheep Industry Association, American Farm Bureau Federation and the American Meat Institute, at the request of House Agriculture Committee, have worked through their respective member and committee structures to vet proposed changes to current law. The groups reached consensus to support a 5-year reauthorization and, on May 6, 2005, sent letters to House Agriculture Committee Chairman Goodlatte and Ranking Member Peterson requesting speedy action on the 5-year reauthorization of the MPR provisions including three pork industry consensus enhancements.

Decisions are being made today which will affect hog, cattle and sheep markets for years to come. Any uncertainty about the nature of future market information makes these decisions more difficult and more risky. Risk, regardless of its source, is costly. It results in sub-optimal asset allocations and investments and can sometimes result in higher interest rates on borrowed capital. Our industries normally operate on very thin margins and large amounts of borrowed capital. We must have a stable business environment and foreknowledge of the type of market information to be available <u>over the long run</u>, contributes to such stability. We urge Congress to reauthorize the LMRA for 5 years by September 30 to provide certainty about the market information that will be available during the coming years.

The pork industry is proposing three enhancements, all of which have the support of both producers and packers. They are:

1. **<u>Enhanced sow reporting.</u>** The original LMRA was designed for market hogs with little thought given to the unique characteristics of cull sows and boars and companies that slaughter them. A new section addresses these issues and expands cull sow and boar coverage to over 80 percent of all sow and boar packing capacity.
2. **<u>Reporting time change.</u>** The original LMRA required all prior day purchase and slaughter data to be reported to AMS by 7:00 a.m. Central time and to be published by AMS by 8:00 a.m. Central time. Pork produces and packers are requesting that these times for prior day slaughter data be changed to 10:30 a.m. Central for reporting and 12:00 p.m. Central for publication. Prior day slaughter data comes from animals that were slaughtered the previous day and purchased over the past 2-7 days. This data set includes all price (high, low, weighted average), volume, carcass data (weight, backfat, loin depth, loin area, percent lean) and sort loss for each lot of hogs slaughtered the previous day, sorted among five purchase types. The size and complexity of these data have made them a source of errors which must be corrected within one hour in order to release as accurate a report as possible. The fact is that these data, while important to

inform producers about prices as they relate to many, many factors, are not critical for the market on the day they are published. They are descriptive of market conditions over the past few days – not the current day or the next few days as are the purchase data. Therefore, both producer and packers believe that allowing packers more time to check the accuracy of the prior day slaughter data and moving its reporting and publication to a time of day when AMS is not as swamped by incoming data will enable more accuracy without depriving the market of information needed to function efficiently.

3. **Publish distributions of net prices.** LMRA requires AMS to publish the high, low and weighted average price in all of its mandatory reports. While valuable, these three prices do not fully characterize the entire price distribution. Producers would like to know how many animals sold within narrower portions (say $1 increments) of the price range. We believe that very few pigs are being purchased for extremely low prices. Daily distributions of net prices will tell us much more about the nuances of the market.

In summary, the LMRA has generated more information than we have ever had before about market prices, quantities and practices in the beef, pork and sheep markets. These data are the result of large investments of time and money by producers, packers and taxpayers. Allowing the reporting programs to end would mean that those investments would be wasted. We believe it is imperative for Congress to re-authorize LMRA for hogs, cattle and sheep for 5 years before September 30, 2005.

This information is vital to producers. Producers and packers have come to depend upon the information and have learned its strengths and weaknesses. The MPR system gives them an accurate frame of reference for their price negotiations. It tells them the cost of animals purchased through contract arrangements so they can have some idea of what a packer's needs and willingness to pay or not pay might be on a given day. It helps them understand the forces that drive prices and price differentials. Finally, it gives producers and packers alike some peace of mind in that everyone is required to participate in the program and all trades are required to be reported.

These systems and the data they provide do not change the prices received by producers or paid by packers. A "mirror" to the marketplace does not affect the marketplace. It does, however, provide a relatively undistorted reflection of a very complex marketplace. We urge Congress to reauthorize the mandatory price reporting system for hogs, cattle and sheep for 5 years by September 30. NPPC asks that Congress include the three pork-industry consensus enhancements for hog price reporting outlined in my testimony. We believe these enhancements

make the system stronger and provide needed details about key aspects of our marketplace.

Thank you Mr. Chairman and Members of the Committee for your time and attention. I would be pleased to answer questions at the appropriate time.

AMERICAN MEAT INSTITUTE

Testimony of

J. Patrick Boyle
President and C.E.O.
American Meat Institute

Before the
Senate Committee on Agriculture, Nutrition and Forestry

Regarding
The Livestock Mandatory Reporting Act of 1999

June 22, 2005

Good morning Mr. Chairman, Senator Harkin and all members of the Committee.

My name is Patrick Boyle and I am president of the American Meat Institute. AMI has provided service to the nation's meat and poultry industry -- an industry that employs nearly 800,000 individuals and contributes about $90 billion in sales to the nation's economy – for almost 100 years.

AMI members include 250 of the nation's largest and smallest meat and poultry food manufacturers. Collectively, they produce 95 percent of the beef, pork, veal and lamb food products and 75 percent of the turkey food products in the U.S.

Among AMI's member companies, 60 percent are small, family-owned businesses employing fewer than 100 individuals. These companies operate, compete, sometimes struggle and mostly thrive in what has become one of the toughest, most competitive and certainly the most scrutinized sectors of our economy: meat packing and processing.

The business practices of AMI's member companies, large and small alike, are governed nationally not only by the Sherman Act, the Clayton Act, the Robinson-Patman Act and the Uniform Commercial Code, but also by the Packers and Stockyards Act, a statute unique to our industry that clearly prohibits meat packers from engaging in unfair or deceptive business practices that disadvantage their livestock suppliers. To my knowledge, there is no other sector of the U.S. manufacturing or service economy in which the federal government plays such a watchdog role with respect to raw material suppliers.

Since long before the Livestock Mandatory Reporting Act became law, AMI has opposed this unfunded mandate due to 100% of the costs being borne at the packing and processing level, with negligible new information available that could not have already been found through voluntary or market-oriented systems. Currently, AMS has hundreds of different commodity reporting programs ranging from hundreds of fruits and vegetables, cotton, and dairy, and of those, meat and livestock are the only reporting programs that are mandatory. The viability and reliability of these voluntary commodity reporting programs, let alone the existence and active participation in public commodity exchanges, is a compelling illustration that mandatory livestock reporting is an unnecessary federal mandate. Indeed, the two most actively traded

agricultural commodity contracts on the Chicago Mercantile Exchange (CME) are the live cattle and live hog contracts. Combined, they represent more than two thirds of the daily average volume of the CME's agricultural products.

Although AMI has always opposed this mandate, our organization has, to the best of our ability, worked with AMS as well as with packers and processors in the beef, pork and lamb sectors to provide guidance in complying with the law. Last year, when the Livestock Mandatory Reporting Act expired for approximately a month, AMI immediately contacted its members and encouraged them to continue reporting information to AMS, and to the best of our knowledge every one of them continued to report voluntarily.

Throughout the first six years of Mandatory Price Reporting, companies routinely have been required to reformat or even buy new computers and software that is compatible with USDA's system, adjust invoicing procedures, cost accounting, and recordkeeping, and add personnel to comply with the mandate's numerous daily reporting times and a multitude of classifications. Even worse for packers has been a changing set of standards, formats and criteri used by the government. Simply put, regulations cost companies and consumers money and changes to those regulations cost more money.

AMI and its membership still believe that Mandatory Price Reporting is an extremely costly mandate that replaced a successful, voluntary reporting program that was widely used and provided meaningful data. However, AMI has been working with its membership, as well as with livestock producer groups, to find consensus on reauthorizing the Livestock Mandatory Reporting Act in a manner that makes the program more effective and efficient without increasing costs or regulatory burdens on the beef, pork and lamb sectors. As a result, AMI along with the National Pork Producers Council, National Cattlemen's Beef Association, American Sheep Industry Association, and the American Farm Bureau Federation support, without amendment, the consensus reauthorization language submitted recently to the House Agriculture Committee and as noted in the letter provided to the Committee today.

This consensus legislation is the result of nearly two years of productive and thorough dialogue. AMI began discussions with the leadership of the livestock community about the pending reauthorization of the Livestock Mandatory Reporting Act in July 2003. Since then, we have had very serious dialogue to further develop this legislation.

To say that there has been a change in the way food is marketed through retailers and foodservice segments during the past six years would be a substantial understatement. The number of SKUs, branded products, and new products in the meat case have greatly expanded and equally matched by dietary changes of the American consumer. Producers and processors have responded to these changes by developing products and livestock to meet these demands. In this reauthorization, as during the initial authorization, we have been very mindful not to impede efforts of producers and processors that seek to develop these value-added, non-commodity products.

Our organizations have worked hard together on this consensus document and hope that we may continue this partnership in moving this legislation forward without amendment and fre of controversy.

Thank you for the opportunity to participate in this hearing today.

Testimony of Harold Hommes, Marketing Bureau Chief of the Iowa Department of Agriculture and Land Stewardship to the United States Senate Agriculture Committee
June 22, 2005

Good morning, Chairman Chambliss, Senator Harkin and members of the Committee.

My name is Harold Hommes and I am the Marketing Bureau Chief at the Iowa Department of Agriculture and Land Stewardship. We sincerely appreciate your seeking our input into this important discussion.

My responsibilities at the Department include the reporting of cash grain and livestock markets for the State of Iowa. We do this through a formal cooperative agreement with the Market News Branch of the USDA-Agricultural Marketing Service (AMS). The Livestock Mandatory Price Reporting Act of 1999 (MPR) is however, a uniquely federal (USDA) responsibility in which we at the state level have no direct involvement.

We believe that the Act has contributed significantly to better and more visibly market information for producers and may even be a contributing factor in the relatively less volatile market conditions that now exist for livestock producers. However, from our discussions with various producers and producer groups, we have come to believe that some significant changes to the Act are warranted.

Allow me to highlight some of our specific concerns.

Inability to Confirm a Trade is Reported

A primary concern is the inability of an individual producer to confirm or verify that his or her livestock transaction was indeed reported and reported correctly to AMS. During recent communications with the AMS staff at the St. Joseph, Missouri office, I was informed that even if a producer were to share his or her actual settlement sheets with the AMS, they would not be able to confirm that the sale was reported and/or reported correctly. The personnel in that office explained to me that they and USDA counsel believe that they do not have the authority under the existing law to share that information, even with the producer. If they are indeed correct in their interpretation of the law, I believe we need to consider changes to the law.

Involving producers in the verification process could be a vital link to accurate price reporting and enforcement. Short of this, we should consider implementation of a user ID number or code that would give the producer access to his/her transaction in the dataset that would verify which report(s) were submitted to the USDA and in which public report(s) they are contained.

Transparency:
Some time ago I asked the Des Moines office of the AMS-Market News Branch for a list of those packers required to submit under the law. I was told this was confidential. Bear in mind, I was not asking for any firms specific slaughter numbers, only whether they were subject to the law.

More recently I asked for a copy of the list of scheduled offences that AMS uses to determine what is considered a minor or major violation. As I understand it there are five levels with a class one being the more serious in nature and class five being relatively minor. I asked for the information because we were concerned that the earlier referenced transaction may have been reported incorrectly or may not have been reported at all. A representative of the St. Joseph office had informed me that if a given violation was serious in nature there could be legal consequences but if it was something more minor, "they just work it out with the packer." Obviously, this concerns me.

Enforcement Lacking
There appears to be no mechanism that lends public transparency to the reporting and enforcement process. This is a fundamental component of nearly every law created at the State or Federal level.

To date, I have yet to hear, or see any evidence of a single fine levied. Under the current framework there are no provisions for public dissemination of information about violations so we would likely never know if a fine was levied. Enforcement is a key element in any regulated industry. The MPR Act does have provisions for enforcement and fines, but it appears that no one is actively engaged in enforcement of the law. One option would be to implement scheduled fines for specific violations. This would insure impartial enforcement of the law. Another option would be to shift some of the enforcement responsibilities to the Packers and Stockyards Administration (P & S).

It would be helpful to know if AMS auditors are finding any violations and how the Market News Branch then deals with such violations. At present we simply do not know and the Market News Branch seems unwilling to share this fundamental information. We would suggest that an annual independent and "out of house" audit be conducted and made public. Alternatively, some form of an oversight committee should be employed.

Inclusion of Wholesale Pork Cuts
For the past five years we have remained concerned about the lack of inclusion of pork market reporting in the existing law. Six years ago during the initial debate of the new legislation, we sought to have wholesale pork cuts as opposed to just swine included in the daily reporting format. We were joined in this call by the Iowa Pork Producers Association, the largest state pork association in the nation and several other groups.

We would ask your support to have pork primals, sub-primals and case ready pork products included immediately in any new or updated version of the Mandatory Price Reporting Act regardless of the extension period authorized.

Ongoing Investigation

There is now an ongoing Government Accountability Office (GAO) investigation of the Livestock Mandatory Price Reporting Program. It is my understanding that a final report will be provided later this year. We would urge you to give the findings of that report due consideration. We are hopeful that the GAO report will provide some insight into some of the concerns we have raised here today.

The MPR Act is now in the middle of a one year extension that was provided earlier this fiscal year by the Congress because there was little time then to properly address all of the needed changes to the program. Some groups are now advocating a five year extension to the existing law. It is our recommendation however, that the authorization be extended for only one year so as to insure the valuable input of the GAO. It seems that moving forward without that input would be nothing short of a waste of taxpayer dollars.

By waiting one year we would all be in a more informed position and we would likely be much more successful in framing an improved program.
As with many laws there is often a need to periodically modify or change them. The Mandatory Price Reporting Act of 1999 is no exception. We believe that some fundamental changes are needed and that the law can be improved.

We do not support or understand the need to rush on changes to the Act without knowing all the facts and especially prior to gaining the GAO's input or recommendations. Nor do we understand why we would now extend the Act for another five (5) years without the benefit of the report.

Summary

In conclusion I would like to reiterate our ongoing support for the Livestock Mandatory Price Reporting Act of 1999. We are here today to seek some modest changes in the law. Primarily, our concerns lie with the issues surrounding transparency, enforcement, the inclusion of wholesale pork cuts and some specifics of the existing law. Rather than extending the Act for a longer period of time we urge patience and we are willing to wait another year in the hope that the GAO will provide some additional guidance.

I am hopeful that the House Agriculture Committee will join you in seeking the valuable input of the GAO prior to any long term extension of the Act.

Thank you again for this opportunity. I will yield for questions or input from others.

HH:Mandatory/hjhmprfinalcomments

Testimony to United States Senate Committee on Agriculture, Nutrition, and Forestry

Hearing to Review the USDA Mandatory Livestock Reporting Program

Date: Wednesday, June 22, 2005
Location: SR-328A, Senate Russell Building
Washington, DC

By: James G. Robb
Director, Livestock Marketing Information Center
655 Parfet Street, Suite E310
Lakewood, Colorado 80215

Mr. Chairman and members of the Committee, I am very pleased to be here today and to share insights from the members and staff of the Livestock Marketing Information Center (LMIC) on the USDA Mandatory Livestock Reporting Program. The LMIC is a cooperative effort of twenty-four Land Grant Universities, six USDA agencies and associate livestock industry organizations[1]. We have been providing a continuous flow of market information and economic analysis for 50 years. Each cooperating institution has a designated professional who serves as a member of the Center. This effort allows duplication of effort to be minimized while providing regional and local expertise on livestock markets.

Summary Comments

It is a high priority that all aspects of Mandatory Livestock Reporting (MPR) legislation be continued. Further, that continuation should be for a multi-year timeframe, which will reduce uncertainty of market participants and USDA agencies, especially the Agricultural Marketing Service (AMS). AMS needs to continue to upgrade computer programming, enhance reports and propose modifications to MPR, actions that require continuity of effort within long-term USDA planning processes.

From a broad perspective, market transparency provides a foundation for efficient markets. Transparency occurs when relevant prices and transaction conditions throughout the marketing chain are readily available. Government available price reporting has proved successful because: 1) access is insured to all market participants; 2) concerns about manipulating data are minimized; and 3) reduces individual costs of finding and compiling data on market conditions. USDA has had major involvement in livestock price reporting since the 1940's. Until MPR was legislated for livestock in 1999, the system was based on voluntary price reporting, with collection, evaluation and synthesis by professional market reporters. Largely because of changes that were occurring in slaughter hog and cattle marketing arrangements, including formulas and forward contracts not being captured with the traditional voluntary system, MPR was legislated.

Today the MPR system effectively provides timely and critical livestock market information on prices that reflect underlying supply and demand conditions. But, early on the system had several problems and evolution of the reporting system and usage of that system has taken time. Problems included defining confidentiality, accuracy of reports, terminology used in reports, report release times, and lack of reports that effectively summarized volumes of data. Each year MPR data has become more integrated in the livestock and meat markets. Small local cooperative producer groups that focus on organic and natural niche markets rely on MPR to set base prices for their slaughter animal prices. Also, large multi-national firms use wholesale beef and lamb prices reported under MPR in contracting and for invoicing of their customers. So, changing major aspects of price reporting is not only costly for USDA agencies and firms that must report, compile, and distribute the data, but also for users that integrate that data and information into their information systems. For example, at the LMIC with each new USDA report or adjustment to an existing report, re-programming of computer software is required.

Compared to the prior voluntary livestock price reporting system, MPR has generally enhanced price discovery and has greatly added to the depth and breadth of available market data and information. Accuracy of price data for the livestock and meat items included in MPR has improved. The major tradeoffs have been in terms of timeliness of slaughter animal price reports (essentially now just twice a day) and providing key data quickly with market insights (done by AMS market reporters using their contacts, both buyers and sellers). Market participants and analysts raise fewer concerns on these issues than earlier in MPR, indicating that in major ways they have compensated for those changes.

Overhaul of the livestock price reporting system is not necessary. In fact, such an effort would likely be detrimental. It took some time for market participants and investments by packers and USDA to set-up the existing system. Then market participants had to learn the new terminology and how to use the reports. As livestock and product markets continue to evolve the price reporting system and related market and policy support provided by USDA also must continue to evolve.

Based on what we know today, improvements can be made but no major changes are recommended in MPR. Recommendations made here should not be considered immediately necessary nor should they be considered a necessary for multi-year reauthorization of existing legislation. I will highlight three areas of potential improvement for your consideration in my verbal testimony some others are given in the full written statement.

- Wholesale pork cuts were not included in the enabling legislation but were for beef and lamb. Based on the need for transparency in pork markets, valuable data in the beef and lamb MPR reports, and the limited voluntary reporting on key pork items, the first priority is to include wholesale pork prices in MPR.

- MPR legislation provided for developing and evaluating high quality monthly retail meat and poultry prices. That system has been developed by USDA's Economic Research Service and now needs to be moved out of the "pilot phase" and made an on-going effort.

- In addition, consideration should be given to adding retail prices for dairy products to the retail price reporting system.

Background and Discussion

Grunewald et. al. (2004)[2] reviewed the published literature on livestock price reporting and summarized the issues and background behind the development of MPR. MPR reports from AMS began to phase in April 2001, subsequent to enabling legislation in 1999.

Major frustrations occurred with the implementation of MPR. To USDA's credit, those concerns have been addressed. Specific issues and adjustments involved confidentiality rules used by AMS, reporting problems on wholesale beef prices, the terminology being developed/used, and report problems.

Improving price reporting in a changing environment (more formula and contract marketing arrangements) was behind MPR. Many also had expectations that "special deals" would be uncovered by MPR, situations that have not been apparent to date. But, as pointed out by Grunewald et. al., "not revealing anything is in itself useful information". Further, some research has suggested that the old voluntary system was providing general price transparency. The much more detailed and accurate data reported by MPR and the enhanced ability to connect slaughter animal with wholesale markets will enhance future research into marketing relationships, pricing and competition issues.

With voluntary price reporting systems, the inherent suspicion is that a small number of transactions are being used to "set market prices". Further, voluntary systems typically do not focus on terms of trade for non-negotiated short-term transactions, which tend to involve formula pricing and contractual relationships. In contrast, mandatory systems conjure-up a picture of government intervention, leaking of proprietary information, collusion mechanisms, and cost of implementation. Overall, MPR has not been as detrimental as early detractors implied. Given existing concentration in the processing of livestock into meat and other products, etc., in the U.S., packers and processors may view MPR as just a cost of doing business.

The major tradeoffs between the old voluntary livestock price reporting system and MPR have been in terms of timeliness of slaughter animal price reports (essentially now just twice a day) and ease distilling data down to a set of key price quotes (done by people with contacts between buyers and sellers). Further, in the old voluntary system, USDA market reporters often credited with assisting in understanding of short term market dynamics between buyers and sellers and for providing market insights, like their assessment of contacts between buyers and sellers that often suggested transactions would soon occur. Market participants and analysts raise fewer concerns on these issues than earlier in MPR, indicating: 1) development of some limited supplementary reports by USDA; 2) use of private data sources for those insights; and 3) increased comfort and better interpretation of MPR reports.

Specific Comments and Recommendations

In this section some comments on Mandatory Livestock Price Reporting (MPR) and specific recommendations for consideration about improvements are discussed. These comments are rather short and designed for those familiar with details of several of USDA's specific efforts and reports. LMIC staff would be happy to provide additional comments to AMS and other interested groups. However, as previously indicated, none of these recommendations should be considered as a necessary condition to multi-year reauthorization of existing legislation. Still, reauthorizing legislation would give USDA and all interested industry participant's clear

guidance to continue to improve MPR through the rule making process. In such a format, we would hope that the items identified below would be given consideration.

A multi-year reauthorization of MPR will reduce uncertainty for all market participants. It will allow producers, agribusinesses and government agencies to further integrate reports into their management and marketing systems. Importantly, as multi-year continuation will allow USDA to justify and make investments that will improve the current system, especially the USDA's Agricultural Marketing Service. In term of timeframe the LMIC suggests at least a four-year reauthorization of all aspects of existing legislation on MPR.

Some added reports that summarize AMS data would be useful. For example, USDA could develop some monthly reports that could overcome confidentiality problems and in a sense "fill in the holes" where data are often missing in daily and weekly reports. This is especially the case for some imported items.

Cattle and Beef

Essentially one year after AMS began to provide MPR reports (April 2002), a survey was conducted of cattle feeders that had several questions regarding MPR (evaluated in Gruenwald et. al.); cattle feeder's responses to MPR depended on "whom you asked". Since that survey, LMIC members and staff indicate that cattle feeders tend to have higher satisfaction levels with MPR. Further, there are indications that cattle feeders and market analysts (private and public) monitor wholesale market prices more than ever before.

Possible improvements to MPR for cattle/beef are:

- Include a timeframe in the "committed" data as in the current format those data have very limited use and the industry only focuses on "delivered" animal reports. Committed data are of little value unless categorized by period covered (e.g. less than 14 days, 14-35 days, 35 days and over).
- Consider extending the packer-reporting period by one hour (and delaying report delivery) so that more of the current days transactions can be incorporated. This is especially a concern with the afternoon reports.
- Study reducing the reporting burden for cow, bull and other small beef processing firms to once per day. Large firms, which mostly process steers and heifers, would still report on a twice per day basis.

Sheep and Lamb

For this industry, USDA developed MPR rules and procedures, for cattle/beef and hogs, the enabling legislation prescribed most MPR procedures. This industry suffered dramatically as long periods of time occurred before an adequate reporting occurred. Recent rule making process have greatly improved the quantity of data, capturing non-negotiated transactions, and usability of price data. At this time, no specific changes or additions are recommended.

Hogs and Pork

Likely the most common question about MPR is why wholesale pork values are not reported like beef and lamb. That question often comes from producers, but importantly often comes from meat buyers for retailers and institutions (e.g. restaurants). Enabling legislation specifically excluded wholesale pork from MPR. Recognizing that there are some limitations in pork product standardization compared to beef and lamb, there is a need for increased transparency in the hog/pork complex. Therefore, it is highly recommended that pork be included in MPR.

Retail Prices

As part of MPR a pilot system was mandated to collect store scanner based retail meat and poultry prices. It should be noted that retailers are not mandated to provided data. But, data are purchased from secondary sources. Retail prices are often misunderstood and the government reported data in the past has had severe problems (e.g. months and years without a steak price reported). This unique effort needs to be maintained and USDA's Economic Research Service has completed their mandate to define, develop and initiate a useful retail price reporting system. The next step is to make this an on-going data collection and dissemination effort. Further, dairy product prices were not part of the MPR retail price reporting system -- dairy should be added.

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[1] Appreciation is expressed to the LMIC members and cooperators that provided comments on the topic of this testimony. The author takes sole responsibility for this testimony, LMIC members or their respective institutions may have different assessments and comments.

[2] Grunewald, Sarah, Ted C. Schroeder and Clement E. Ward. 2004. Cattle Feeder Perceptions if Livestock Mandatory Price Reporting. Review of Agricultural Economics, Volume 26, Number 4 (pages 521-538).

DOCUMENTS SUBMITTED FOR THE RECORD

JUNE 22, 2005

Statement of Senator Thad Cochran

Senate Agriculture Committee Hearing
Review of the Livestock Mandatory Reporting Act of 1999

June 22, 2005

Mr. Chairman, I would like to thank you for holding this hearing to review the Livestock Mandatory Reporting Act. I also want to thank the panelists who will testify today.

USDA's Agricultural Marketing Service has long collected livestock and meat prices and related market information, on a voluntary basis. In the 1990s, the livestock industry went through many changes which made determining fair market prices difficult, if not impossible, under a voluntary system. With the implementation of Mandatory Price Reporting, the livestock industry underwent a smooth transition that has been beneficial to determining fair market prices.

Mr. Chairman, this hearing provides the Committee with an opportunity to review the framework and utility of the Livestock Mandatory Reporting Act. I believe this Act has served our country well, and I look forward to working with my colleagues to ensure its continued effectiveness. I appreciate the participation of the members of the witness panel, and I look forward to their testimony.

American Lamb Council

American Sheep Industry Association, Inc.

American Wool Council

www.sheepusa.org

Statement of Paul R. Frischknecht

On behalf of the

American Sheep Industry Association

Before the

Committee on Agriculture, Nutrition, and Forestry

United States Senate
Washington, D.C.

June 22, 2005

Mr. Chairman and members of the Committee, on behalf of the nation's sheep industry, I am pleased to provide this statement regarding the Mandatory Price Reporting system for livestock.

As the national trade association for the United States sheep industry, our board of directors has established policy strongly supporting reauthorization of Mandatory Price Reporting (MPR). We urge the Congress to approve the reauthorization prior to the deadline this fall and we commit our resources to assist in any manner needed on this critical program.

The reporting details, process, and requirements for the sheep industry are by rulemaking of the U.S. Department of Agriculture. This has allowed our industry to work cooperatively with the Department since implementation in 2001 to modify and update the system. We have successfully made changes in the program with the most recent being the addition of wholesale prices of imported lamb, initiated in January of this year. This is an important benefit of MPR, not only to provide additional transparency to U.S. lamb meat markets but in fairness to U.S. companies that carry the expense of price reporting of American product, as now also do the foreign and domestic companies handling foreign lamb.

We therefore seek no changes to MPR in reauthorization but would ask every consideration of the Committee to reauthorize the study by the USDA Economic Research Service of the retail price series for lamb. This retail series of lamb

9785 Maroon Circle, Suite 360 • Englewood, Colorado 80112-2692 • Fax (303) 771-8200 • Telephone (303) 771-3500

prices has proven valuable to the American lamb promotion, research and information board in marketing campaigns. The retail series collected by the Department for lamb under MPR is the only avenue available to our industry. Prior to this study under MPR, retail prices of lamb meat had not existed since the Bureau of Labor Statistics ended retail reporting in the 1980's.

I add an observation from the perspective of industry regarding MPR in that from June 2002 through June of 2005 we have not witnessed the same level of price volatility in lamb that occurred under the voluntary reporting system. We cannot absolutely credit MPR yet, however it was reasoned in 1999 that MPR could reduce the extremes of price changes. All major lamb companies now report meat prices and in a more consistent manner. Under the voluntary system, some companies refused to provide price information or did so only selectively.

The implementation period of MPR in 2001 was chaotic in the U.S. lamb market with a collapse of live lamb prices in June of that year. It was November of 2001 before reports were regular in our industry and we caution the Committee that in the absence of reauthorization of MPR, we risk market disruption again should transition back to a voluntary system become necessary.

We applaud the Committee in conducting this timely hearing on a critical issue for the sheep industry. It is worthy to note that our association is also utilizing the database of prices collected under the mandatory system for a model that we have provided the Federal Crop Insurance Corporation to base a Livestock Price-Risk Protection Program for lamb. Without the price data collected under MPR, it would be very unlikely that we could seek a pilot program for price protection for lamb that has been implemented for beef and hog producers. The lamb industry in the U.S. does not have any price risk mitigation tools available today and this is a high priority of our industry.

Thank you for the opportunity to discuss this important topic.

June 29, 2005

The Honorable Saxby Chambliss
Chairman
Committee on Agriculture
U.S. Senate
416 Russell Senate Office Building
Washington, D.C. 20515

The Honorable Tom Harkin
Ranking Minority Member
Committee on Agriculture
U.S. Senate
731 Hart Senate Office Building
Washington, D.C. 20515

Dear Chairman Chambliss and Ranking Member Harkin;

The National Pork Producers Council (NPPC) appreciated the opportunity to present its views on the reauthorization of the Livestock Mandatory Reporting Act (LMRA) and its Mandatory Price Reporting (MPR) provisions during the Agriculture, Nutrition, and Forestry Committee hearing on June 22, 2005.

During our past president Jon Caspers' testimony before the committee, several questions were asked regarding changes to the timing and price-level relationships of the reports being published by the United States Department of Agriculture (USDA). I am writing to respond to these questions with several points of clarification, and I ask that these points be submitted for the written record.

1. There is no "right" or "wrong" time for market reports. As Mr. Caspers pointed out during the hearing, the market will adjust in various ways to whatever time is set, whether those times are statutory or established by regulation. The current 10:00 a.m., 2:00 p.m. and 8:00 a.m. the following day schedule was created to provide benchmarks during the business day and provide comprehensive data after a business day concluded.
2. The incentive for packers to bid low in the morning and then increase bids later in the day is a function of contract terms, not price reports. The incentive would be present, regardless of the times chosen, as long as contract prices are tied to a specific report. This is especially true if the reference report is the first one of the day and therefore involves the fewest number of hogs. The

morning report was almost universally the source of base prices at the time LMRA was enacted.

3. The National Pork Producers Council (NPPC) realized very early that this incentive existed. As soon as enough data were available to provide meaningful conclusions, Professor Glenn Grimes and Dr. Ron Plain of the University of Missouri, and Dr. Steve Meyer of Paragon Economics, NPPC's consulting economist, compared the various reports to see if there were significant differences. They compared the various time-of-day reports for each region and across regions. A copy of this report is attached for your review. (see Attachment A) These livestock economists found that, in general, later reports had higher prices and that the Iowa-Minnesota and Western Cornbelt prices are higher than those in the Eastern Cornbelt – a logical conclusion given Iowa's hog deficit status and the fact that Iowa-Minnesota comprises most of the Western Cornbelt data.
4. NPPC has consistently recommended that producers use the afternoon or next morning's prior-day report to price contracted hogs, since these reports include a greater number of hogs in the data and thus are more difficult to manipulate. This recommendation has been included in speeches, press releases, conferences, and any other means available.
5. It took time to act on the advice to use "later" reports. Contracts that were in place when LMRA was enacted could not be changed until they expired. As they did, many producers have negotiated to tie their base contract prices to the afternoon report or the next morning's prior-day report. The USDA prior-day report, however, fails to ask for the state of origin of the animals being reported, which prevents some packers from using these reports. The packers have stated, however, that they will use the prior-day report once this glitch is corrected. USDA wants to make any rule changes en masse instead of in a piecemeal fashion in order to reduce the costs of compliance. Accordingly, they have delayed correcting this problem. It is our understanding that USDA plans to do so when they write new rules for the reauthorized act. Delaying reauthorization may well delay their taking action and keep the prior-day report from being more widely used to determine contract prices.

At the end of this letter is Graph A, demonstrating Iowa-Minnesota prices and price differences since May 2001. In this graph, Dr. Meyer has compared the weighted average negotiated price from the three reports for Iowa-Minnesota. The graph shows 9-day moving averages for price differences and the actual price for day five of the 9-day moving average period. Data from a test of

difference from zero are included in Table A. The data given in Table A indicate that differences from zero are statistically insignificant for both price difference series. This means, over time, the afternoon and morning prices are equal and the prior-day and afternoon prices are equal, with a 95% confidence rate.

The price differences do, however, show some patterns that coincide with the direction of the market price. When hog prices are rising, the difference series are generally positive (similar to the example presented during the hearing). When hog prices are falling, they are generally negative. There are many market dynamics that can cause prices on specific days to not follow these patterns; however, on balance, they reflect current market conditions

The U.S. pork industry continues to need a stable market information system. Decision makers need to have confidence that this data will be available in the future. As clearly stated in our testimony, NPPC, the National Cattlemen's Beef Association, American Farm Bureau Federation, American Sheep Industry Association, and American Meat Institute have worked intensely over the past year to review current law and have developed a consensus position supporting a five -year reauthorization, including three pork-industry consensus enhancements. NPPC urges the committee to take swift action to reauthorize LMRA for a period of five years.

Again, thank you for your interest in the issue of LMRA reauthorization. NPPC looks forward to working with you on an issue of such critical importance to America's pork producers.

Sincerely,

Don Buhl

Don Buhl
President
National Pork Producers Council

GRAPH A

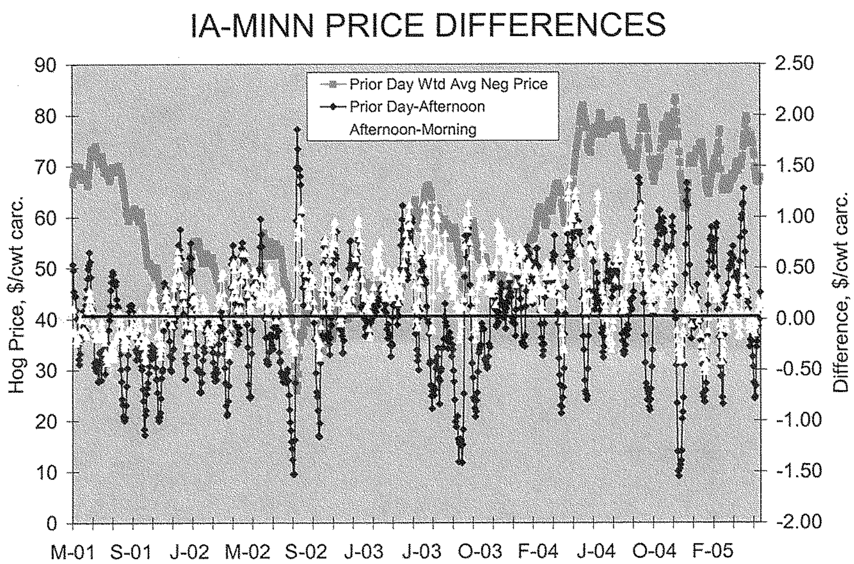

TABLE A
Difference from Zero Test Data

	Prior Day-Afternoon	Afternoon-Morning
Average	0.0345	0.2617
Std. Deviation	0.977	0.722
t-statistic	0.035	0.362
Critical t-value (p=.05)	1.96	1.96

ATTACHMENT A

Analysis of USDA Mandatory Hog Price Data

Glenn Grimes, Professor Emeritus, University of Missouri
Ron Plain, Professor, Agricultural Economics Department, University of Missouri
Steve Meyer, President, Paragon Economics

The USDA Mandatory Price Reporting System Price Data Reports started in 2001 as part of the Livestock Reporting Act of 1999. These reports cover about 90% of the Federally Inspected hog slaughter. This analysis reviews reports for 2002 and 2003.

In general, these data indicate that pork producers will be better off using the afternoon or prior-day price reports from USDA's Agricultural Marketing Service as their base price for marketing contracts. In addition, producers should avoid using the Eastern Corn Belt price. The Iowa-Minnesota and Western Corn Belt prices are very comparable and marginally higher than the national price.

Table 1 shows the comparison of afternoon and morning weighted average prices for negotiated hogs in the four geographic areas covered by USDA's Mandatory Price Reporting System Reports. Note that the afternoon minus the morning price differences are all positive, with one exception, and are generally largest for the Eastern Corn Belt. These positive differences exist in quarters where prices were trending downward as well as quarters with uptrending prices. We believe that the best explanation for the positive difference is that many marketing contracts are currently priced off the morning reports, thus creating an incentive for packers to delay aggressive bidding until after the morning report data have been submitted to USDA. Afternoon prices are then bid higher.

Table 2 shows the differences between weighted average prices for negotiated hogs on USDA's Prior Day Report (issued at 8:00 a.m. and covering all of the animals purchased the previous day) and the afternoon report of that prior day. Few consistent differences can be seen in these data.

Theoretically, the prior-day report prices should be the most stable and hardest to manipulate of all the prices published under Mandatory Price Reporting since it represents all of the hogs purchased on a given day. These data suggest that the prior day price is not consistently different from the afternoon price which should include most of the hogs purchased during a given day.

Table 3 and Table 4 compare prices for the Eastern Corn Belt, Western Corn Belt, and the nation to the Iowa-Minnesota price in the afternoon and prior day reports. The only consistent positive differences are found between the Iowa-Minnesota and Eastern Corn Belt prices and, interestingly, these differences appear in both the afternoon and prior day reports. These data demonstrate the expected situation of higher prices in the Western Corn Belt and Iowa-Minnesota, which is a subset of the Western Corn Belt data where there are more packing plants and some hog-deficit areas. However, in the third quarter of 2003, the Eastern Corn Belt was above Iowa-Minnesota.

These results are no surprise to veteran market observers. The number of marketing contracts tied to morning price quotes has created a strong incentive to delay aggressive bidding until later in the day. These price data suggest that most of that bidding is done in the late morning and early afternoon. Hog-deficit areas in Iowa and Minnesota usually have the highest hog prices in the United States.

Producers should negotiate marketing contracts to use either the afternoon or prior-day Iowa-Minnesota or Western Corn Belt price as the base. Not only will these prices be higher, but their inclusion of large numbers of hogs and larger time periods will make price manipulation more difficult.

Table 1
Negotiated Barrow and Gilt Prices,
Difference of Afternoon over Morning Price *($ per cwt.)*

Period	Iowa-Minn	Eastern Corn Belt	Western Corn Belt	Nation
First Quarter 2002	0.05	0.22	0.15	0.15
Second Quarter 2002	0.20	0.36	0.33	0.31
Third Quarter 2002	0.25	0.37	0.30	0.24
Fourth Quarter 2002	0.26	0.78	0.31	0.51
First Quarter 2003	0.40	0.86	0.43	0.53
Second Quarter 2003	0.47	0.26	0.42	0.38
Third Quarter 2003	0.90	-0.09	0.32	0.13
Fourth Quarter 2003	0.50	0.04	0.45	0.24

Table 2
Negotiated Barrow and Gilt Prices
Prior Day Minus Afternoon Price *($ per cwt.)*

Period	Iowa-Minn	Eastern Corn Belt	Western Corn Belt	Nation
First Quarter 2002	-0.12	0.02	-0.17	-0.09
Second Quarter 2002	-0.05	0.08	0.01	0.06
Third Quarter 2002	-0.18	-0.10	-0.16	-0.13
Fourth Quarter 2002	0.09	0.02	0.13	0.08
First Quarter 2003	0.07	-0.05	0.10	0.07
Second Quarter 2003	0.02	-0.12	0.24	0.32
Third Quarter 2003	-0.36	0.05	-0.11	-0.04
Fourth Quarter 2003	0.13	0.07	0.26	0.28

Table 3
Negotiated Barrow and Gilt Prices
Afternoon Price Comparison *($ per cwt.)*

Period	IA-MN Minus ECB	IA-MN Minus WCB	IA-MN Minus Nation
First Quarter 2002	0.49	-0.02	0.19
Second Quarter 2002	0.60	-0.03	0.22
Third Quarter 2002	1.85	0.02	0.75
Fourth Quarter 2002	-0.06	-0.08	-0.10
First Quarter 2003	-0.01	-0.05	-0.04
Second Quarter 2003	0.52	0.12	0.24
Third Quarter 2003	-0.09	0.10	0.07
Fourth Quarter 2003	0.92	0.04	0.42

Table 4
Negotiated Barrow and Gilt Prices
Prior Day Price Comparison *($ per cwt.)*

Period	IA-MN Minus ECB	IA-MN Minus WCB	IA-MN Minus Nation
First Quarter 2002	0.28	0.03	0.12
Second Quarter 2002	0.48	-0.04	0.17
Third Quarter 2002	2.01	-0.09	0.77
Fourth Quarter 2002	0.05	-0.08	-0.04
First Quarter 2003	0.09	-0.08	-0.02
Second Quarter 2003	0.66	0.09	0.13
Third Quarter 2003	-0.50	-0.15	-0.25
Fourth Quarter 2003	0.98	-0.09	0.27

This study was funded by the National Pork Board and the University of Missouri-Columbia.

July 19, 2005

The Honorable Saxby Chambliss
Chairman
Committee on Agriculture
U.S. Senate
328-A Russell Senate Office Building
Washington, DC 20515

The Honorable Tom Harkin
Ranking Minority Member
Committee on Agriculture
U.S. Senate
328-A Russell Senate Office Building
Washington, D.C. 20515

Dear Chairman Chambliss and Ranking Member Harkin:

We the undersigned national livestock producer organizations would like to thank you for holding the recent Senate Agriculture, Nutrition, and Forestry Committee hearing on reauthorization of the 1999 Livestock Mandatory Reporting Act (LMRA). The hearing presented testimony from various stakeholders and answered many questions and clarified many issues from various interested parties regarding the current mandatory reporting program. Testimony reflected that, in general, the current MPR program is working well and that livestock producers know more today about the number, prices, weights, grade, and leanness of animals sold under various price arrangements than was available under the previous voluntary system.

We are writing to clarify several points made during the recent hearing and once again urge the Senate Agriculture Committee work with the livestock industry to reauthorize the Mandatory Price Reporting (MPR) provisions contained in the LMRA, including three pork industry consensus enhancements, for a period of five (5) years.

During the Senate hearing a number of issues were raised, questions were asked and answered, however, we would like to reemphasize these points.

First, we believe that LMRA should be reauthorized for five-years. It is unwise to jeopardize the long-term extension of this program due to an ongoing U.S. General Accounting Office (GAO) review of LMRA. U.S. livestock producers need stability in the information available to decision-makers without the risk of an interruption of this reporting program. A five-year reauthorization would not prevent Congress from revising the statute.

Second, some had suggested during the hearing that the regulations to implement LMRA are less stringent or did not follow the guidance of the statute. Upon your review of the attached side-by-side comparison of the LMRA statute and USDA's regulations, you will find that the statute and regulations mirror one another.

Third, the issue of compliance and transparency were raised. Regarding these issues, at our request, the Agricultural Marketing Service (AMS) is working on publicly available information detailing the Department's enforcement protocols and efforts to inform both the public and Congress, without jeopardizing the law's confidentiality requirements, which were sought by livestock producers when the law was crafted.

Finally, the issue concerning the "missing" 1,150 head of cattle from Nebraska was clearly put to rest during the hearing when Dr. Ken Clayton from the Department, explained that these cattle had been forward contracted and thus had been reported several months earlier.

As you know, U.S. livestock producers continue to need transparent, accurate, and timely market price reporting system in order to make informed business decisions. Today's MPR program provides good and accurate information, largely due to its breadth of coverage on the vast majority of over 100 million hogs, 35 million cattle and 3 million sheep and lambs slaughtered each year in the U.S.

We urging that prompt action be taken prior to adjournment for August recess to ensure that the LMRA is reauthorized and signed into law, for a period of five (5) years by September 30, 2005. We look forward to working with the Senate Agriculture Committee on an issue of such great importance to America's livestock producers. We will be contacting your staff to arrange for a meeting to further discuss the Committee's next steps

Sincerely,

National Pork Producers Council
National Cattlemen's Beef Association
American Sheep Industry Association
American Farm Bureau Federation

CROP INSURANCE TESTIMONY
National Barley Growers Association
June 20, 2005

Of primary importance to barley producers is an effective safety net that includes a comprehensive crop insurance program. At present, RMA has products available to barley producers that offer limited risk protection. Consequently, the National Barley Growers Association (NBGA) requests RMA to expand the safety net by working with growers and insurance developers to design novel crop insurance products that are actuarially sound and economically viable.

The NBGA has assembled a Risk Management Task Force (RMTF) to provide assistance to RMA in enhancing and improving crop insurance for barley producers. The position of the RMTF is attached to this testimony. The NBGA welcomes the opportunity to work with RMA to improve the safety net of crop insurance products available to barley producers.

In addition, producers in North Dakota have been plagued by a fungal disease in barley that can result in severe quality reduction and price discounts. This disease, caused by *Fusarium sp.,* results in the accumulation of deoxynivalenol (DON) on the seed, which renders the crop useless to maltsters. The RMTF encourages RMA to develop an insurance rider to allow producers to insure for this specific peril. This would assist in strengthening the safety net for producers in North Dakota and Minnesota.

Barley Risk Management Task Force
Submission to USDA/RMA
on Proposed Revisions to Malting Barley Endorsement
June 24, 2004

The National Barley Growers Association (NBGA) and American Malting Barley Association (AMBA) jointly offer the following recommendations to the USDA Risk Management Agency in their deliberations on Malting Barley Endorsement.

It is the **joint position of the NBGA and AMBA** that the inclusion of APH requirements in the Option B Malting Barley Endorsement would amount to an elimination of effective insurance coverage for the majority of malting barley production under contract with the US malting and brewing industry. Because of declining barley acreage in the US in the past five years, US malting and brewing companies have increased contracting of malting barley, thus bringing a larger number of barley producers into the Option B Malting Barley insurance pool. Many of these new contract acres are located in what might be considered nontraditional (but certainly not fringe) areas of the Northern Tier barley production region because of persistent weather-related problems in more traditional areas in eastern North Dakota, northwest Minnesota and South Dakota.

Further, we wish to strongly emphasize that the recent loss ratio experiences of the Malting Barley Endorsement are the result of multiple years of adverse weather and environmental conditions that have resulted in a loss of yield, malting quality or a combination of both, and have outside the control of our barley producers. These loss ratios are not the result of fraud, poor crop management or inappropriate contracting practices in so-called fringe areas.

Proposal:
I. New Option B Rating Structure -- We strongly oppose the inclusion of APH requirements in Option B Malting Barley Endorsement coverage. We propose, instead, a three-tiered rating structure:

1. Producers with an Option B loss ratio less than 1.0%, using a 4-year actual performance history, would be eligible for a premium discount of 25%.

2. Producers with an Option B loss ratio in the range of 1.0% to 1.5% would be rated under the current methodology.

3. Producers with an Option B loss ratio in excess of 1.5% would be subject to a premium surcharge up to but not to exceed 25%.

4. New producers who do not have a malting barley planting history would be subject to a premium surcharge up to but not to exceed 25%.

II. Injured by Sprout – We strongly urge that the new Injured by Sprout measurement established by FGIS replace the existing Sprout Damage quality factor for settling insurance claims. We request that this change be made under expedited procedures available to RMA.

III. DON quality standard – We strongly urge the use of contract specifications as the DON quality factor for settling insurance claims, similar to current MPCI coverage.

IV. Protein specification for 2-row malting barley – We strongly urge a change in the protein quality factor for 2-row malting barley from 14% (current) to 13.5%, to reflect actual contract specifications.

V. Conditioning incentives – We are recommending using actual settlement prices to determine the value of rejected barley in order to encourage more conditioning and potentially higher fill rates of malting barley contracts.

VI. Work with NBGA and industry to investigate a simplified Enhanced Price Protection policy for US barley producers. Under this concept barley would be ensured as feed only under the different policy options: MPCI, RA or IP and then producers could buy a rider at enhanced price levels ($.50/bu, $1.00/bu, $1.50/bu, $2.00/bu, etc.). This approach could address many concerns we have about current coverage gaps, particularly for barley seed and hay barley not currently eligible for coverage.

QUESTIONS AND ANSWERS

JUNE 22, 2005

Mr. Jon Caspers
Response to Questions from Senator Tom Harkin
Mandatory Price Reporting
July 29, 2005

1) In your testimony you stated: "In the last year, NPPC's Competitive Markets Working Group developed 3 consensus enhancements."

Q: Could you provide me with a description of the membership of this working group and how many individuals represented packers and how many represented producers?

A: The National Pork Producers Council (NPPC) is proud to be a producer-led organization. Our board of directors consists of 11 producers, one packer, and one allied industry member. The consensus enhancements came at the recommendation of our Competitive Markets Working Group, consisting of nine producers, three packers, and two livestock economists.

2) You also stated: "I have heard from producers that they would like wholesale pork cuts included in the law along with beef and lamb. There appears to be broad support for the inclusion of pork cuts into the law."

Q: Why does NPPC not include reporting wholesale pork cuts as one of its consensus proposals?

The five (5) year reauthorization and three pork-specific industry consensus enhancements are a carefully balanced, consensus legislative package reached by the interested stakeholders representing the National Pork Producers Council, the National Cattlemen's Beef Association, the American Farm Bureau Foundation, the American Sheep Industry Association, and the American Meat Institute. Accordingly, we would oppose the reauthorization of this package if an amendment is adopted, including the addition of wholesale pork cuts, that does not have the prior agreement of the organizations supporting this proposal. NPPC's goal is to have the LMRA reauthorized for five (5) years with the three pork-specific industry consensus enhancements before its expiration on September 30, 2005.

Given the broad support by producers, would NPPC support including wholesale pork cuts in required reporting in the legislation?

During year-long discussions that the pork industry had on the issue of inclusion of wholesale pork cuts we could not reach consensus amongst producers and packers because of the "broad" legislative authority that would have to be given to USDA to include pork cuts. There are many, many individual specifications for

pork cuts, and these specifications vary widely from company to company. Each specific product will frequently be sold by only one or two companies each day thus preventing publication of a price due to confidentiality requirements. Therefore, any legislative language to include pork cuts would have to be quite "broad" to allow USDA to adjust and aggregate prices into primal or common sub-primal values. Producers prefer more prescriptive language that guarantees reporting requirements and fulfills specific needs for published information. Because of this, a consensus was not able to be reached and our Competitive Market's Working Group and our Board of Directors did not recommend inclusion of wholesale pork cuts as part of our proposed enhancements.

Mr. Jon Caspers
Response to Questions from Senator Charles Grassley
Mandatory Price Reporting
July 29, 2005

Q: Could you please provide the makeup of the task force [that recommended the enhancements]? Specifically, who was on it and a brief description of their operation?

A: The National Pork Producers Council (NPPC) is proud to be a producer-led organization. NPPC's Board of Directors is ultimately responsible to setting NPPC's public policy positions. The Board consists of 11 producers, one packer, and one allied industry member. The pork-specific enhancements were recommended to our Board of Directors by our Competitive Markets Working Group, consisting of nine producers, three packers, and two livestock economists.

Q: I would also like to ask why the NPPC in particular is not seeking the inclusion of pork cuts to the reporting regime despite that recommendation from the Livestock Marketing Information Center, the Agricultural Marketing Service (AMS) and the Iowa Department of Agriculture. It is my understanding that the Iowa Pork Producers Association also supports that inclusion. Does the NPPC have any stated policy on record in this regard?

A: NPPC believes that the 1999 Livestock Mandatory Reporting Act (LMRA) provides producers with vital market information and we are concerned that the timely flow of this market information will be interrupted. Pork producers want to be assured that they have a reliable, complete, and uninterrupted flow of market information. As you know the LMRA expired for six weeks last year, and pork packers voluntarily reported data without legal obligation. We want to ensure this situation does not occur again. Late last year, the House Agriculture Committee once again requested that the affected stakeholders develop and bring to Congress a consensus legislative proposal in order to reauthorize LMRA in a timely and responsible manner.

In 2004, the NPPC Delegates passed a resolution urging USDA to report wholesale pork cuts and products. During year-long discussions the pork industry had on the issue of inclusion of wholesale pork cuts, we were not able to reach consensus amongst producers and packers on how this could be done because of the "broad" legislative authority that would have to be given to USDA to include pork cuts. There are many, many individual specifications for pork cuts, and these specifications vary widely from company to company. Each specific product will frequently be sold by only one or two companies each day thus preventing publication of a price due to confidentiality requirements. Therefore, any legislative language to include pork cuts would have to be quite "broad" to allow USDA to adjust and aggregate prices into primal or common sub-primal values. Producers prefer more prescriptive language that guarantees reporting requirements and fulfills specific needs for published information. Because of this, a consensus was not

able to be reached and our Competitive Market's Working Group and our Board of Directors did not recommend inclusion of wholesale pork cuts as part of our proposed enhancements.

Q: You referenced your May 6 letter to House Agriculture Chairman Goodlatte, do you believe that inclusion of pork products would specifically cause your organization (NPPC) to not support the consensus agreement?

A: The five (5) year reauthorization and three pork-specific industry consensus enhancements are a carefully balanced, consensus legislative package reached by the interested stakeholders representing the National Pork Producers Council, the National Cattlemen's Beef Association, the American Farm Bureau Foundation, the American Sheep Industry Association, and the American Meat Institute. Accordingly, we would oppose the reauthorization of this package if an amendment is adopted, including the addition of wholesale pork cuts, that does not have the prior agreement of the organizations supporting this proposal. NPPC's goal is to have the LMRA reauthorized for five (5) years with the three pork-specific industry consensus enhancements before its expiration on September 30, 2005.

Q: Can I assume that the National Cattlemen's Beef Association did not have a single issue of suggested change for any re-authorized law?

A: NPPC is only qualified to comment on issues related to the pork industry.

Q: Would your organization support the inclusions of any recommendations forthcoming from the GAO to be incorporated in the new authorized Act should it be extended for the full five years per your recommendation?

A: NPPC supports a 5-year reauthorization with the three pork-specific industry consensus enhancements to ensure continued market reports and additional market transparency. When the GAO releases its report, NPPC will undertake an immediate review of the findings and recommendations in that report. Should our Board of Directors and our Competitive Markets Working Group find additional recommendations that would enhance and strengthen the LMRA program, NPPC could consider additional policy positions or recommend congressional action.

Livestock Marketing Information Center

655 Parfet Street, Suite E310
Lakewood, Colorado 80215-5517
(720) 544-2941
FAX (720) 544-2973

July 20, 2005

The Honorable Charles E. Grassley
C/o Mr. Robert Sturm, Chief Clerk
Senate Committee on Agriculture, Nutrition and Forestry
Room SR-328A
Senate Russell Office Building
Washington, DC 20510-6000

Dear Senator Grassley:

I received three questions from you that followed up on my testimony at the hearing on June 22, 2005 to review the USDA Mandatory Livestock Reporting Program. Your questions were based on a copy of my e-mail correspondence with the Livestock Marketing Information Center (LMIC) Technical Advisory Committee on July 16, 2005. I will respond specifically to your questions after giving you some additional background.

After being asked to testify at the Senate Committee on Agriculture, Nutrition and Forestry hearing on the USDA Mandatory Livestock Reporting Program, I sent an e-mail to all LMIC Technical Advisory Committee (TAC) members (one professional represents each LMIC member institution) and other leading affiliated Agricultural Economists to ask them for input, comments, academic articles to review, etc. As part of those responses, I received inquiries from two TAC members regarding questions they had received on some Iowa/Nebraska fed cattle sales not being reported under Mandatory Price Reporting. So, I called the Washington, DC office of USDA's Agricultural Marketing Service (AMS), an agency the LMIC has worked with for decades. In that discussion, I was given the information that was later summarized in my e-mail. I believe I was not given any different information than any other person would have received upon inquiry of AMS. At the time of my inquiry it was apparent that interpretations of what had happened were being widely circulated via the National Association of State Departments of Agriculture and by some commodity groups. Prior to sending out my e-mail, I did visit with a second USDA person to confirm that this was public information and to generally review the facts, as I understood them. I was encouraged to share the information with the experts on our TAC.

Per your specific questions:

1) What specific information do you have that clarify this situation? Please provide my office with those documents. Also, I would like to know the source of this information. All information I received and summarized in my e-mail was from two phone calls I initiated to USDA AMS staff in Washington, DC. I have no documents, e-mails, etc., other than my e-mail memo that you have already obtained.

2) Have you received the results of the AMS investigation and audit? I have not received any written results.

3) The producer has apparently received a dressed settlement for what he understood to be a live sale. How might this have contributed to the inability of the producer to find his transaction? Do you have any suggestions for me or the AMS regarding how this could be addressed in the future? My understanding (not given in my e-mail to TAC) is that the terms of this transaction were rather unusual and that part of the problem in identifying the cattle was how the contracted cattle after being delivered were reported by the packer. AMS told me that upon their investigation the packer corrected the transaction to a live basis sale and AMS subsequently revised their data. This situation points out that AMS needs to: 1) continue to monitor and audit for rather unusual marketing arrangements; and 2) constantly look for new transaction conditions being used in the industry and for AMS staff to remind packers to report such information.

Thank you and the Committee for supporting U.S. livestock producers. Your interest in maintaining viable and effective price discovery mechanisms will enhance the whole industry long-term. If the LMIC can be of any assistance on marketing issues in the livestock, meat and poultry industries, please contact me.

Sincerely,

James G. Robb
Center Director